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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 25 April 2003 from the Permanent Representative of Italy to the United Nations addressed to the Chairman of the Committee

Following your letter dated 4 March 2003, I have the pleasure to enclose herewith the report of Italy to the Security Council Committee established pursuant to Security Council resolution 1267 (1999), submitted in accordance with Security Council resolution 1455 (2003).

(*Signed*) Marcello **Spatafora**

03-35264 (E) 060603

Annex to the letter dated 25 April 2003 from the Permanent Representative of Italy to the United Nations addressed to the Chairman of the Committee

Report of Italy to the Committee established pursuant to Security Council resolution 1267 (1999), submitted in accordance with resolution 1455 (2003)

Introduction

This report illustrates the measures adopted in Italy to implement Resolution 1455/2003 establishing a series of sanctions against the Taliban, Al-Qaida, Usama Bin Laden and their associates, decreeing the freezing of their assets, the ban on entry and transit, and the supply of weapons and related materials.

This report should be read also in the light of the two reports presented in 2001 and 2002 to the Security Council Counter-Terrorism Committee (CTC), and the report submitted to the Committee set up by Resolution 1267 in 2002 providing detailed in-depth responses on this issue. For this reason, in those cases where no further changes have been made with respect to the situation described previously, the present report refers at several points to information already provided in the recent past.

New elements that should be underlined include the ratification of the Conventions for the suppression of the financing of terrorism and the suppression of terrorist bombing, thanks to which Italy is now a party to all the international conventions against terrorism, as promptly notified to the CTC.

Furthermore, the investigations carried out by our Police Forces have enabled us to ascertain the presence in Italy of citizens suspected of being in contact with members of Al-Qaida. These investigations are being carried out in several regions and have enabled us, to date, to break up terrorist cells engaged in providing logistical support for terrorists in transit, the procurement of false documents, proselytism and the recruitment of new members.

Also worthy of note is the attached* table regarding the freezing of goods and funds in Italy, drawn up under the guidance of the competent authority in our country, the Financial Security Committee (FSC).

* The enclosure referred to in the report is on file with the Secretariat, room S-3055, and is available for consultation.

I Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Although fundamentalist Muslim terrorist organisations have never carried out any attacks in Italy, the Italian forces of law and order (Police and Carabinieri) have carried out a series of important operations in recent years, about ten of which were particularly significant and led to the arrest of a large number of militants.

In view of their strategic importance, the following are worthy of note:

- "Operation Sphinx", which ended in June 1995 in Milan with the arrest of twelve Egyptians and one Jordanian considered to be linked to the subversive Egyptian group "Al Jamaa Al Islamiya",

- "Operation Shabka" (Network), which led in 1996 to the capture in various cities, including Turin, of 16 Algerians and two Moroccans suspected of being part of a cell providing logistical support to the Algerian "Armed Islamic Group" (GIA). In addition to links with Egypt, significant links emerged from this investigation with the combatants in Bosnia, to whom the groups operating in Italy provided specific logistical support. The leader of the organisation, Anwar Shaban, who escaped capture, died shortly afterwards in a gunfight in Bosnia.

- The arrest in Turin in 1998 of three Egyptians suspected of being members of the Egyptian Islamic Jihad. This was the first operation of this nature in which weapons were found. It should be pointed out that one of these individuals, who disappeared after serving over a year in prison, was later accused by the Egyptian authorities of

membership of an armed band, massacre, homicide and possession of weapons and explosives.

- The arrest, in the cities of Bologna, Varese, Ferrara, Milan and Brescia on 10 June 1998, just before the football World Cup in France, of 6 Tunisian citizens, 3 Moroccans, 3 Algerians and one Italian considered to be linked to the "Salafist faction" of the GIA led by the dissident emir Hassan Hattab (Nahla and Ritorno Operations). On 13 January 2003, 16 of the foreigners involved in the above operations were convicted by the Bologna judicial authorities with sentences ranging from 6 months to five years and 6 months.

- More recently, operation "Al Muhajirun" - divided into three linked stages, which ended respectively in April, October and November 2001 - targeted the members of an Algerian-Tunisian terrorist cell of the Salafist Group for Call and Combat (GSPC), which is active in Lombardy and is based around the Muslim Cultural Institute in Milan. The investigations enabled us to ascertain that these associates of the GSPC provided logistical support to recruit militants in order to indoctrinate them and then send them to war zones, notably Chechnya.

- In July 2002 a detailed investigation was carried out in Milan into members of a criminal association specialising in receiving and forging stolen documents. The group was made up of foreigners of Moroccan origin – some of whom already known for having had links with members of the GSPC, to which they supplied false documents – and nine warrants of arrest with imprisonment were issued against the individuals involved. On 7 January 2003 the Milan Court convicted the foreigners involved in the affair to sentences ranging from one and a half years to three years imprisonment.

- On 28 September 2002 a Tunisian citizen, against whom a warrant of arrest and imprisonment had been issued by the Bologna judicial authorities on 9 June 1998 since he

was considered to belong to a criminal organisation linked to the GIA that was dedicated to the forging of documents, dealing in counterfeit money, forgery and the receipt of illicit goods, was arrested. The person in question, who had previously fought in the mujahedin battalion during the conflict in Bosnia, was considered to be a key element in the organisation.

- On 21 February 2003 a Tunisian citizen was expelled from Switzerland. On entering Italy over the Ponte Chiasso border, the person in question was arrested since he was subject to an arrest warrant issued by the Bologna judicial authorities on 30 January for failing to respect the requirement to remain in that municipality that had been imposed following his release from prison on 26 July 2002. This Tunisian citizen had been arrested in Bologna on 15 February 2002 in application of a warrant of arrest and imprisonment issued by the Public Prosecutor's Office as part of a criminal proceeding against a cell of the "Armed Islamic Group – GIA" operating there, of which he was a member, because he was considered have participated with others in the crimes of forgery, receipt of stolen goods, dealing in counterfeit banknotes and other offences. On 13 January 2003 he was sentenced by the court of Bologna to 5 years 6 months in prison. He immediately went into hiding and moved with his family to Switzerland, where he requested political asylum. His application was turned down.

- As part of "Operation Bazar", a detailed investigation into a cell operating in Milan, with branches in other cities, is nearing conclusion. The cell provides logistical support to terrorists in transit, procures false documents and engages in proselytism and the recruitment of new members. On 9 October 2002 the investigation led to the enforcement of a warrant of arrest and imprisonment issued by the examining magistrate for Milan, against 7 individuals, seriously suspected of the international terrorism offences.

In the follow-up to these activities, taken forward in a framework of international cooperation with other investigative and intelligence bodies, links were identified with a training base in northern Kurdistan under the group "Ansar Al Islam", which is entered on the UN list of bodies belonging to or associated with Al-Qaida.

On 1 April 2003, as part of the same operation, the arrest warrant against two Tunisian citizens was implemented. The warrant had been issued by the examining magistrate of Milan for the offence of conspiracy for the purposes of international terrorism (Art. 270 bis of the penal code).

The outcome of the investigative and intelligence activities regarding radical groups operating in Italy shows how the fundamentalist cells are engaged primarily in logistical activities, mainly involving the procurement of false or counterfeit documents and the recruitment and transportation of volunteers to Afghan training centres.

This logistical role is probably the basis for the proven connections between the groups found in Italy and fundamentalist cells and groups in other European countries, including as a result of interpersonal contacts made and developed during shared training experiences or operational engagement in *jihad* theatres of action.

The fact that the cells in Italy can be linked to a European network pursuing a strategic design in line with that taken by Al-Qaida and its leader, Usama Bin Laden, and the often long-standing links connecting certain radical circles, mainly North African in origin, with crisis situations, continues to be an indicator of the danger posed by the fundamentalist groups based in Italy and by those circles, including criminal organisations, that probably gravitate around the cells under investigation.

The fact that important operations dating from the second half of the 1990s and involving Islamic fundamentalism have regarded subversive movements such as the Egyptian and Algerian ones, which we know have re-formed in more internationalist terms – if not outright affiliation to Al Qaida – leads us to view those groups, which still today seem to be the most active in the region, as the most dangerous versions of the "European branch" of fundamentalism.

Recent arrests in Northern Italy confirm the capacity of the extremist networks to regenerate themselves, the central role played by North African circles in the logistical framework of the radical network in Europe and the continuing activism of the militant movements in Italy, which clearly maintain strong links with groups in other European countries and with those territories where the ranks of Al Qaida re-grouped after the military intervention in Afghanistan.

Although the activity of intelligence agencies and the forces of law and order have not recently uncovered specific terrorist plans for attacks to be carried out in Italy, it is felt that the insidious nature of the cells in our country – which have responded to the intensified measures to identify and counter them by intensifying their own capacity for camouflage or concealment – lies in the contribution these groups have made up till now to taking forward the overall radical Islamic strategy.

The links between the fundamentalists identified in Italy and old and new theatres of operations confirm the importance of certain personalities present in Italy and by no means rule out the possibility of a shift of emphasis of the activity of these groups to a more offensive position, for example by attacks against objectives of a symbolic nature.

The news regarding the presence and transit of radical individuals/groups in the nearby Balkans, where some extremist structures seem to be intent on creating forms of intra- and trans-regional coordination, casts further light on the nature and extent of the regional threat.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

This point was discussed in the Italian report to the UN Security Council Sanctions Committee set up under Resolution 1267, presented in 2002 in accordance with Resolution 1390, notably points a), b) and c).

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

In this respect the problems that were pointed out in the previous Italian report to the Sanctions Committee presented in accordance with Resolution 1390/2002 can be reiterated, particularly the fact that it is not possible to insert names in the Police Forces' common information system for which the essential identification data is not available.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

The 1267 Committee has already been sent specific Italian proposals in this respect.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

The competent authorities are continuing to examine possible further initiatives.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities far inclusion in the List? Please specify and elaborate, as appropriate.

Only one has been filed, with the Ministry for the Economy through the Government Lawyers' Service, in January 2003, by the NASCO BUSINESS RESIDENCE CENTER S.a.s. owned by Nasreddin Ahmed Idris, requesting the total unfreezing of current bank accounts to carry out business activity. The lawsuit, submitted to the Court of Milan, was rejected because the ordinary judicial authority did not have jurisdiction in the matter. Each and every part of the European Union company law regulations is mandatory

and directly applicable in each Member State. It is not therefore possible for a national judicial authority to adopt such a provision against the freezing of assets.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the. Committee as well as similar information on listed entities, as available.

The proposals presented by Italy to this Committee included references to individuals resident in our country.

In addition, on 7 November 2001 in Campione d'Italia (CO) the villa of NADA YOUSSEF was searched. NADA YOUSSEF was born in Alexandria on 17.5.1931 and is a naturalised Italian citizen, resident in no. 32 Via Arogno of Campione d'Italia, founding partner and chairman of the BANK AL TAQWA LIMITED, established in 1987/1988 (since 6 March 2001 this structure has been called "NADA MANAGEMENT ORGANIZATION s.a.", based in Lugano-CH). NADA was accused of supplying financial and logistical support through the above-named company to the authors of the terrorist attacks in the US on 11 September 2001. He was also accused of providing funding for Al-Qaida, from 1981 on.

As regards the second question, investigations are being carried out, but these are currently covered by secrecy provisions.

8. According to your national legislation, if applicable, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The answer to this question has already been provided at point 2 (a) of the operational paragraph of the national Report on the implementation of UN Resolution 1373 (2001), to which we would ask you to refer. The measures to combat such activities have been further strengthened through Law 7 of 14 January 2003

ratifying and implementing the International Convention for the Suppression of the Financing of Terrorism made at New York on 9 December 1999, which introduced provisions bringing the domestic legislation into line.

III. Financial and Economic Assets Freeze

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

This question has already been answered at point a) of the Italian report to the UN Security Council Sanctions Committee established by Resolution 1267, presented in 2002 in accordance with Resolution 1390.

10. Please describe any structures or mechanisms in place within your Government to identity and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

In addition to the information provided at point 1(a) of the operational paragraph of the national report on the implementation of UN Resolution 1373 (2001), to which we would ask you to refer, the following points are also worthy of note.

The Financial Security Committee (FSC) was created to monitor Italian action against the financing of terrorism and to enhance the co-ordination of the different competent agencies. The FSC is the competent authority for EU legislation relating to financing sanctions.

The FSC promoted the adoption of Law 431/01 setting penalties for violating the freezing of assets imposed on terrorists. Asset freezing is normally decided through a EU regulation, either autonomously or as a consequence of a UNSC decision. Art. 2 of

Law 431/01 establishes that any act that infringes EU provisions concerning asset freezing (but also the prohibition of exports of goods and services and the bans on flights) is invalid and incurs penalties. Penalties are automatically applicable under any new EU regulation.

The suppression of terrorist financing requires an active role on the part of banks and financial intermediaries. The FSC has promoted (art.3 of Law 431/01) the extension of the scope of the powers of the Ufficio Italiano dei Cambi (UIC), the Italian FIU, to include countering the financing of terrorists. The UIC reporting system and connected financial investigative activities are now used to discover early signals of terrorist involvement in the Italian financial system. The UIC has issued specific instructions to banks and financial intermediaries, asking them to report any transaction that could be related to individuals and organisations involved in terrorist activities. The UIC holds on its web-site an updated list of terrorists whose assets are subject to freezing.

The FSC has issued specific guidelines for the application of freezing orders to cover of issues like homonymy and derogation from the freezing order. The UIC has transmitted these guidelines to financial intermediaries.

The Committee contributed to drawing up the list of terrorists as for UNSCR 1390 and is considering further submissions.

In the preparation of these lists the Committee has acquired intelligence and information in the possession of Government Departments and other Administrations, even if this involves waiving the Official Secrecy Act; the Committee may also request further investigations by the Ufficio Italiano dei Cambi, CONSOB and the "Guardia di Finanza" (Financial Police).

The international nature of terrorist financing means that countries must work together and share information in order to identify and take effective action against it. To this end, the FSC has encouraged cooperation among Financial Intelligence Units to collect and share information on money laundering and terrorist financing.

The need to coordinate the efforts that have been made to identify the financial networks of Bin Laden, Al Qaida and the Taliban, the individuals or groups who provide them with support and the individuals, group, activities and bodies associated with them have been translated, as far as the intelligence sector is

concerned, into the creation of a special Committee that brings together representatives of the information services, the Ministry for the Economy and Finance, the Ministry of Foreign Affairs and the Ministry of Productive Activities. Reference has already been made to this Committee at sub-paragraph 1(a) of the national supplementary report presented to the CTC in November 2002.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The answer to this question is provided in point 1 (c), third question, of the operational paragraph of the national supplementary report on the implementation of UN Resolution 1373 (2001), to which we would ask you to refer.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities."

Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of the assets frozen.**

A comprehensive summary is contained in the attached table, drawn up by the FSC.

13. Please indicate whether you have released, pursuant to resolution 1452 (2002), any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

To date, the FSC, the competent authority in this area, has not received any request for exemptions.

14. Pursuant to resolution 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as -- or similar to -- "hawala", as well as to charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

As regards the system for the prevention of market abuse Legislative Decree 374 of 25 September 1999 extends the provisions concerning recycling, contained in Law 197/1991, to financial activities particularly susceptible to use for illicit purposes and envisages oversight by the UIC and powers of inspection by the same body and by the special currency unit of the Guardia di Finanza. Art. 3 defines "financial agencies" and establishes an obligatory requirement on both financial and non-financial intermediaries to respect the obligations of identification, registration and notification of suspect operations. As envisaged by Legislative Decree 374/1999, Ministerial Decree no. 485 of 13 December 2001 regulates the activity of the agencies in financial activities. Finally, Law no. 73 of 22 April 2002 includes a provision extending the scope of the competencies and powers of the UIC and the Guardia di Finanza to actions to counter the financing of terrorist activities.

Law 460 of 4 December 1997 reorganised the sector through the creation of a category entitled Non-profit Organisations of Social Utility (ONLUS), defined as non profit organisations with social solidarity goals, either sports-related, social, cultural, educational, political or charitable, in most cases outside the economic sector. The ONLUS can be associations (registered or unregistered), foundations or fund-raising committees. Regulation 329 of 21 March 2001 states that the ONLUS should be overseen by a regulatory body, the "Agenzia per le ONLUS", which reports to the Prime Minister's Office on a yearly basis. Because of the very short time that has passed since its creation, a number of issues regarding its tasks and governance are still pending. I aw 460/97 does not envisage any watchdog/accreditation organisation to monitor charitable fundraising on behalf of the donor community. The donor community is not precluded from organising such a monitoring system. According to Law 460/97, ONLUS are required to report on their finances by separately drawing up the balance sheet and the annual rendering account. In addition, pursuant to

Regulation no. 329/2001 the "Agenzia" for the ONLUS has the power of supervision over the non-profit sector. The Italian legislator requires all non profit organisations that are willing to obtain ONLUS status to enrol in Registers held by the local office of the Ministry of the Economy and Finance. The ONLUS Register was set up only recently and until now has been used mainly for fiscal purposes. Further developments are expected shortly. Finally, ONLUS are required to mention the word ONLUS in their denomination, as well as in all distinctive marks and communications addressed to the public.

With regard the other aspects (sub-points 1-2-3-4), please refer to point a) of the Italian report to the UN Security Council Sanctions Committee set up pursuant to Resolution 1267, presented in 2002 in accordance with Resolution 1390.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

An answer to this question is provided in the national Report on the implementation of Resolution 1373 (2001), more specifically at point 2 (g).

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Those names entered on the Sanctions Committee Lists that include the minimum identification data for insertion (name/surname, date and place of birth) have been entered in the national border control lists.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

Each time the list is up-dated the competent offices of the Frontier Police are promptly informed.

At the national level all Frontier Police posts (including those under the responsibility of the Carabinieri and Guardia di Finanza), as well as the Questura police administration and local offices, are linked to the central inter-force database known as the SDI.

As far as the individuals entered on list 1390 (2002) are concerned, those for whom the minimum identification details required by the IT system are available have been inserted. In practice, only individuals whose name/surname, date and place of birth and nationality are know n can be inserted.

As a result of these restrictions those names for which the minimum details were available have been inserted in the SDI-border list for the purposes of the ban on entry to Italian territory.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

Subsequent to their inclusion in the list, none of the individuals has been identified at the border or on Italian territory by central or local Police offices.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

As we have already informed the Monitoring Group for the implementation of Resolution 1390, Italy has sent the updated list of individuals covered by the sanctions to all diplomatic and consular missions abroad. On the basis of the checks that have been carried out no name from the list has been identified by the visa-issuing authorities.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida

organization. and the Taliban and other individuals, groups, undertakings and entities associated with them?

This question has already been answered at point c) of the Italian Report to the UN Security Council Sanctions Committee set up by Resolution 1267, presented in 2002 in accordance with Resolution 1390.

VI. Assistance and Conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Italy has submitted an official report to the CTC as a contribution to the task of drawing up the "directories of assistance" for the fight against terrorism.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

The most serious problems to emerge thus far in the implementation of the sanctions envisaged by the Resolutions in question are essentially connected with the difficulty of inserting in the IT systems those names for which the minimum identification data are not available.

In addition, the problem of identifying who should be responsible for inserting the names from this list in the Schengen Information System is still under consideration by the European Union.

26. Please include any additional information you believe pertinent.

Please refer to the introduction to the report.

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Note verbale dated 2 May 2003 from the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Slovak Republic to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to submit herewith the report of the Slovak Republic in accordance with paragraph 6 of Security Council resolution 1455 (2003) (see annex).

03-35306 (E) 100603

Annex to the note verbale dated 2 May 2003 from the Permanent Mission of Slovakia to the United Nations addressed to the Chairman of the Committee

Report by Slovakia on the implementation of Security Council resolution 1455 (2003)

I. Introduction

To date, the Slovak authorities have not identified the presence of individuals or entities that have been included in the 1267 Committee's Consolidated List, or individuals or entities having direct or indirect links with Usama Bin Laden or members of the Taliban or Al-Qaida organisations within the territory of Slovakia. There have been no cases of criminal activity uncovered in Slovakia, such as money laundering, immigration fraud, credit card fraud, marriage fraud, visa fraud, etc. qualified as carried out in support of the objectives or actions of these terrorist organisations.

On 7 March 2002, a group of Afghan immigrants had been intercepted by the Slovak police on the country's southern border with Hungary. After requesting asylum, they had been interned in the unguarded Adamov refugee camp near the Czech and Austrian borders. The group had been on its way through Bulgaria, Slovakia, Austria and the Czech Republic to the UK. The police had fingerprinted the group on their arrival at the Adamov camp. On 12 March 2002, the police received information that the group might include Al-Qaida and Taliban fighters and raided the camp to arrest them, but the Afghans were no longer present. They managed to escape from the refugee camp fleeing westwards across the border. It was later established that none of these individuals was connected to either of the above-mentioned terrorist organisations.

The overall terrorist threat level in Slovakia with respect to Usama Bin Laden, Al-Qaida and the Taliban is currently considered to be of "low risk". Recent intelligence reporting indicates little likelihood that Al-Qaida may attempt to attack civilians, local citizens and foreigners, economic or symbolic targets in Slovakia.

II. Consolidated list

The key domestic legislation act concerning the sanctions of the UN Security Council is the Act of the National Council of the Slovak Republic No. 460/2002 Coll. on the implementation of international sanctions maintaining or restoring international peace and security.

Pursuant to paragraph 2 of Act No. 460/2002 Coll., the Government of the Slovak Republic issued Decree No. 707/2002 Coll. implementing the UN Security Council sanctions relevant to the individuals and entities belonging to or associated with the Taliban and Al-Qaida organizations into domestic legislation, thus obligating nationals or any persons within the territory of the Slovak Republic to conform to all of the prohibitions of the sanction regime established by the UN Security Council.

An integral part of the Decree is the Consolidated List, as established and maintained by the 1267 Committee. The Decree is published in the Collection of Laws of the Slovak Republic.

The amendment to the Penal Code, effective as of 1 September 2002, introduced terrorism as a new criminal offence. The legal concept and definition of the crime of terrorism is contained in Article 94 of the Penal Code and the definition of a terrorist group is contained in its Article 89, paragraph 28. The Amended Penal Code provides that anyone who commits a crime of terrorism shall be subject to sentence of 12 to 15 years of imprisonment, or to an extraordinary sentence and forfeiture of property. The penal sanctions outlined in the Penal Code for the crime of establishing, masterminding and supporting a terrorist group in accordance with the Penal Code range from 5 to 15 years of imprisonment and forfeiture of property.

III. Financial and economic asset freeze

The financial prohibitions imposed by the UN Security Council financial sanctions regime relating to the Taliban and Al-Qaida have also been implemented by the Government Decree No. 707/2002 Coll. adopted in accordance with the Sanctions Act of the National Council of the Slovak Republic No. 460/2002 Coll.

Under Decree No. 707/2002 Coll., it is illegal for a national or any person within the territory of Slovakia to make available, directly or indirectly, funds, financial assets and economic resources to the individuals or entities listed in the 1267 Sanction Committee Consolidated List.

On 13 February 2003, the Slovak Ministry of Finance officially informed the Ministry of Foreign Affairs that it had conducted a verification of whether licensed banks, financial houses and financial institutions maintain accounts for the individuals or entities included in the 1267 Consolidated List. In all cases, a negative reply had been received, meaning that the institutions in question did not hold accounts for or on behalf of the sanctioned individuals or entities and consequently no funds had been frozen.

Under the Money Laundering Act No. 367/2000 Coll., banks or other financial institutions have a mandatory obligation to promptly report to the Financial police all transactions, when it is deemed that there is a suspicion of an attempt to legalise proceeds which are suspected of being derived from an unlawful conduct or intended for financing of terrorism.

According to the Banking Act No. 483/2001 Coll. a documentary customer identification proof is required. Under Article 89 of the Banking Act No. 483/2001 Coll., a bank or a branch office of a foreign bank must demand proof of identity from their customers in each transaction. Financial service providers shall refuse to conduct transaction for customers who request anonymity.

Furthermore, a proof of ownership of funds must be presented before any customer is allowed to conduct a cash transaction of € 15,000 or more, whether on his own or someone else's

behalf. If the customer is acting for someone else, the other person's identity must also be verified before the transaction is processed. The party on whose behalf a transaction is being conducted must give his/her written consent before the transaction is processed.

Under paragraph 1 of Article 42 of Banking Act, banks, financial institutions and other similar institutions must retain records of all data and hard copy of identity verification and funds ownership identification for a mandatory period of 5 years after the particular business transaction had been completed.

As regards the fight against money laundering, Slovakia has achieved good progress in this field by introducing measures to combat money laundering and to abolish anonymous savings books and accounts.

Slovakia is a member of the Select Committee of Experts on the Evaluation of Anti- Money Laundering Measures (MONEYVAL), which conducts self and mutual assessment exercises of the anti-money laundering measures in place in 21 Council of Europe countries, which are not members of the Financial Action Task Force (FATF). The aim of the Committee is to harmonise legal, financial and punitive measures in its member states, relying on the relevant international standards.

IV. Travel ban

Restrictions on travel of foreigners to and their residence in Slovakia are regulated by the Act of the National Council No. 48/2002 Coll. on the Residence of Foreigners as amended. The law includes, but is not limited to:

- Right to deny entry into the Slovak Republic, if the individual is an undesirable person;
- Right to deny entry into the Slovak Republic for security purposes and maintaining public order, protection of health conditions and rights and freedoms of other individuals;
- Negative decision on visa application (visa denial) by the Slovak Consulates abroad, based on the decision of the central national authority entrusted with determining eligibility for travel - the Border police;
- Negative decision on application for temporary or permanent residence in the Slovak Republic.

The above provisions constitute the legal basis for imposing travel restrictions on individuals and entities belonging to or associated with the Taliban and Al-Qaida organisations included in the 1267 Sanction Committee Consolidated List. They were also incorporated into the Order of the Head of the National Police Force on the entry and residence of foreigners in the Slovak Republic No. 17/2002, which further specifies the conditions under which a foreign individual can be barred from entering the country and sets out duties of the border police officials in this respect.

On 23 December 2002, the Interior Ministry issued Decree No. 78/2002 on the operation and utilisation of the population register for storing data on foreigners who face a ban on entering the country (the national "stop list"). This Decree enabled the targeted individuals and entities named in the 1267 Consolidated List to be placed in the category of undesirable persons.

Data relating to foreigners who are reported for the purposes of being refused entry is communicated to all border checkpoints and international airports on the territory of Slovakia by means of a specialised on-line system. The current format of the 1267 Consolidated List for the purposes of locating persons is inconsistent with the electronic system of data storage used by the border control authorities. The Consolidated List is made available to border and immigration authorities in the form of a text document (intranet or manual). It is forwarded to all relevant authorities, including consular offices of Slovakia abroad by the Ministry of Foreign Affairs each time it is updated by the 1267 Sanction Committee. The border checkpoints are transmitted the List via the Office of the Border police immediately upon its receipt from the Ministry of Interior of Slovakia or INTERPOL. The on-line system used for identification of individuals under travel restrictions is currently being updated. The new system that will be operational by 1 May 2003 will provide the authorities with the capability of searching the List electronically at all entry points.

V. Arms embargo

Slovakia applies a national embargo with respect to the countries that are subject to mandatory UN arms embargoes. The ban imposed by the UN Security Council on supply, sale and transfer of arms and related materiel to Usama bin Laden, members of Al-Qaida organisation and the Taliban is implemented by the Government Decree No. 707/2002 Coll.

In Slovakia, the legislation governing exports of arms and military materiel is contained in Act No. 179/1998 on Trading in Military Materiel as later amended. The legislation includes controls on arms brokers, who are required to seek government authorisation to take part in the trade and also to request licenses for each individual deal they mediate. Any person who willfully violates the Act on Trading in Military Materiel may be subject to a civil penalty up to 10 million Slovak Crowns (SKK) while the goods traded shall be liable to forfeiture. Furthermore, any violation under this Act may be considered as a criminal offence against the controlled goods and technology regulations punishable under Articles 124(a), 124(b) and 124(c) of the Penal Code by imprisonment of 3 to 8 years, pecuniary punishment, forfeiture of property or prohibition of business activity.

Slovakia places great emphasis on compliance with international commitments, relevant recommendations of multilateral military related export control regimes, agreements on non-proliferation, the EU Code of Conduct for Arms Exports, as well as other international obligations.

United Nations S/AC.37/2003/(1455)/42

Security Council

Distr.: General
21 May 2003
English
Original: Arabic

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 19 May 2003 from the Permanent Representative of the Kingdom of Saudi Arabia to the United Nations addressed to the Chairman of the Committee

I have the pleasure of transmitting to you herewith a report submitted by the Government of the Kingdom of Saudi Arabia pursuant to paragraph 6 of Security Council resolution 1455 (2003).

(*Signed*) Fawzi Bin Abdul Majeed **Shobokshi**
Ambassador
Permanent Representative

03-36887 (E) 280503 290503

Annex to the letter dated 19 May 2003 from the Permanent Representative of the Kingdom of Saudi Arabia to the United Nations addressed to the Chairman of the Committee

Report of Saudi Arabia submitted pursuant to paragraph 6 of Security Council resolution 1455 (2003)

The resolute stance on rejecting terrorism in all its forms and manifestations that has always been maintained by the Kingdom of Saudi Arabia is based on the Islamic Shariah from which the country derives all of its statutes and regulations. Accordingly, Saudi Arabia is an active participant in all efforts being made at the regional and international levels to combat and uproot terrorism. At the domestic level, the country has taken a large number of measures essential for the prevention and countering of terrorist crimes. Accordingly, the Government of the Kingdom of Saudi Arabia wishes to emphasize the following points:

- Its categorical rejection and condemnation of all forms of terrorism, whatever its source or its aims;
- Its active cooperation and participation in and contribution to international and bilateral efforts to combat terrorism and the financing thereof;
- Its compliance with and implementation of the Security Council resolutions relating to counter-terrorism.

Below are some of the steps taken by the Kingdom of Saudi Arabia to implement the measures referred to in Security Council resolution 1455 (2003). We would refer also to the reports submitted by the Kingdom to the Security Council in accordance with Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

Paragraph 4

The Kingdom of Saudi Arabia emphasizes that it has no new security information about members of al-Qa'idah and the Taliban and other individuals, groups, undertakings and entities associated with them. Should it obtain any additional information, it will supply it to the Committee at a future date. We would point out here the importance of providing integrated and comprehensive information concerning the names of individuals, groups, undertakings and entities included in the list, inasmuch as some of the names include only two parts, are similar or aliases or are based on unclear information, making it impossible to identify them properly or distinguish them from similar names.

Paragraph 5

The Kingdom of Saudi Arabia has laws and regulations to prevent any violations of the measures referred to in paragraph 1 of resolution 1455 (2003), and the Kingdom always strives to develop and strengthen its statutes and regulations relating to the combating of terrorism and the financing of terrorism.

Paragraph 6

In implementation of the relevant Security Council resolutions concerning counter-terrorism, the Saudi Arabian Monetary Agency (SAMA) has addressed

circulars to Saudi Arabian banks instructing them to investigate the extent to which they might be holding assets belonging to the individuals, groups, undertakings and entities included in the list of those suspected of having links to terrorism issued by the Security Council Committee concerning counter-terrorism, to freeze such accounts if found and to check also periods prior to the events of 11 September 2001.

The circulation of those lists to banks operating in the Kingdom has so far led to the impounding of 41 (forty-one) accounts belonging to 7 (seven) individuals and entities whose names are included in the lists, and the amounts impounded total US$ 5,679,400,000. The bank accounts of Osama bin Laden were frozen in 1994.

It should be noted that the Saudi Arabian banking system does not permit non-resident individuals or entities to open bank accounts. Nevertheless, the circulars gave all the names included in the Security Council's lists in order to ensure that there were no accounts belonging to them.

Paragraph 7

The Kingdom of Saudi Arabia affirms that it will cooperate fully with the Security Council Committee established pursuant to resolution 1267 (1999) and with the Monitoring Group referred to in paragraph 8 of resolution 1455 (2003) in the discharge of its functions and the attainment of its goals and that it will strive to implement the Security Council resolutions relating to counter-terrorism.

United Nations S/AC.37/2003/(1455)/42*

Security Council

Distr.: General
13 June 2003
English
Original: Arabic

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 19 May 2003 from the Permanent Representative of the Kingdom of Saudi Arabia to the United Nations addressed to the Chairman of the Committee

I have the pleasure of transmitting to you herewith a report submitted by the Government of the Kingdom of Saudi Arabia pursuant to paragraph 6 of Security Council resolution 1455 (2003).

(*Signed*) Fawzi Bin Abdul Majeed **Shobokshi**
Ambassador
Permanent Representative

* Reissued for technical reasons.

03-36887* (E) 130603

Annex to the letter dated 19 May 2003 from the Permanent Representative of the Kingdom of Saudi Arabia to the United Nations addressed to the Chairman of the Committee

Report of Saudi Arabia submitted pursuant to paragraph 6 of Security Council resolution 1455 (2003)

The resolute stance on rejecting terrorism in all its forms and manifestations that has always been maintained by the Kingdom of Saudi Arabia is based on the Islamic Shariah from which the country derives all of its statutes and regulations. Accordingly, Saudi Arabia is an active participant in all efforts being made at the regional and international levels to combat and uproot terrorism. At the domestic level, the country has taken a large number of measures essential for the prevention and countering of terrorist crimes. Accordingly, the Government of the Kingdom of Saudi Arabia wishes to emphasize the following points:

- Its categorical rejection and condemnation of all forms of terrorism, whatever its source or its aims;
- Its active cooperation and participation in and contribution to international and bilateral efforts to combat terrorism and the financing thereof;
- Its compliance with and implementation of the Security Council resolutions relating to counter-terrorism.

Below are some of the steps taken by the Kingdom of Saudi Arabia to implement the measures referred to in Security Council resolution 1455 (2003). We would refer also to the reports submitted by the Kingdom to the Security Council in accordance with Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

Paragraph 4

The Kingdom of Saudi Arabia emphasizes that it has no new security information about members of al-Qa'idah and the Taliban and other individuals, groups, undertakings and entities associated with them. Should it obtain any additional information, it will supply it to the Committee at a future date. We would point out here the importance of providing integrated and comprehensive information concerning the names of individuals, groups, undertakings and entities included in the list, inasmuch as some of the names include only two parts, are similar or aliases or are based on unclear information, making it impossible to identify them properly or distinguish them from similar names.

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The Kingdom of Saudi Arabia has laws and regulations to prevent any violations of the measures referred to in paragraph 1 of resolution 1455 (2003), and the Kingdom always strives to develop and strengthen its statutes and regulations relating to the combating of terrorism and the financing of terrorism.

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It should be noted that the Saudi Arabian banking system does not permit non-resident individuals or entities to open bank accounts. Nevertheless, the circulars gave all the names included in the Security Council's lists in order to ensure that there were no accounts belonging to them.

Paragraph 7

The Kingdom of Saudi Arabia affirms that it will cooperate fully with the Security Council Committee established pursuant to resolution 1267 (1999) and with the Monitoring Group referred to in paragraph 8 of resolution 1455 (2003) in the discharge of its functions and the attainment of its goals and that it will strive to implement the Security Council resolutions relating to counter-terrorism.

United Nations S/AC.37/2003/(1455)/43

Security Council

Distr.: General
21 May 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 15 May 2003 from the Permanent Mission of the Commonwealth of The Bahamas to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Commonwealth of The Bahamas to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to refer to the latter's note dated 4 March 2003 regarding the report to be submitted by Member States pursuant to paragraph 6 of resolution 1455 (2003).

In this regard, the Mission is pleased to forward the report of the Commonwealth of The Bahamas. The Mission regrets the late submission of this report.

03-36847 (E) 290503

Annex to the note verbale dated 15 May 2003 from the Permanent Mission of the Commonwealth of The Bahamas to the United Nations addressed to the Chairman of the Committee

COMMONWEALTH OF THE BAHAMAS
REPORT ON UN SECURITY COUNCIL RESOLUTION 1455

The Government of the Commonwealth of The Bahamas is mindful of the obligation placed on member states of the United Nations to implement in full resolution 1455 (2003) including with regard to any member of the Taliban and the Al-Qaida organization and any individuals, groups, undertaking and entities associated with the Taliban and the Al-Qaida organization, who have participated in the financing, planning, facilitating and preparation or perpetration of terrorist acts or in supporting terrorists as well as to facilitate the implementation of counter-terrorism obligations in accordance with relevant Security Council resolutions

The report is submitted to the Security Council Committee established pursuant to resolution 1267 (1999) in compliance with paragraph 6 of UN Security Council resolution 1455 (2003)

1. ***DECIDES to improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002);***

1. Resolution 1267 (1999)

4(b) Freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban, or by any undertaking owned or controlled by the Taliban, as designated by the Committee established by paragraph 6 below, and ensure that neither they nor any other funds or financial resources so designated are made available, by their nationals or by any persons within their territory, to or for the benefit of the Taliban or any undertaking owned or controlled, directly or indirectly, by the Taliban, except as may be authorised by the

Committee on a case by case basis on the ground of humanitarian need;

The International Obligations (Economic and Ancillary Measures) Act Chapter 16 Revised Edition of the Laws of The Bahamas provides for the imposition of economic sanctions and for the taking of ancillary measures to give effect to the international obligations of The Bahamas. Section 3 (1) of that Act enables the Governor General, for the purpose of implementing a decision, resolution or recommendation of an international organization or association of states of which The Bahamas is a member, that requests its members to take economic measures against a foreign state, or where the Governor General is of the opinion that a grave breach of international peace and security has occurred that has resulted or is likely to result in serious international crisis-

(a) make such orders or regulations with respect to the restriction or prohibition of any of the activities referred to in subsection (2) in relation to a foreign state as the Governor General considers necessary; and

(b) by order, cause to be seized, frozen or sequestered in the manner set out in the order any property situated in The Bahamas that is being held by or on behalf of

(i) a foreign state;

(ii) any person in that foreign state, or

(iii) a national of that foreign state who does not ordinarily reside in The Bahamas,

with a view to preventing the removal of such property in contravention of the laws of The Bahamas.

Section 3(2) of the Act provides that orders and regulations may be made pursuant to paragraph (1)(a) with respect to the restriction or prohibition of any of the following activities, whether carried out in or outside The Bahamas, in relation to a foreign state:

(a) any dealing by any person in The Bahamas or Bahamian outside The Bahamas in any property wherever situated held by or on behalf of that foreign state, any person in that foreign state, or a national of that foreign state who does not ordinarily reside in The Bahamas;

(b) the exportation, sale, supply or shipment by any person in The Bahamas or Bahamian outside The Bahamas of any goods wherever situated to that foreign state, or any other dealing by any person in The Bahamas or Bahamian outside The Bahamas in any goods wherever situated destined for that foreign state or any person in that foreign state;

(c) the importation, purchase, acquisition or shipment by any person in The Bahamas or Bahamian outside The Bahamas of any goods that are exported, supplied or shipped from that foreign state after a date specified in the order or regulations, or any other dealing by any person in The Bahamas or Bahamian outside The Bahamas in any such goods;

(d) the provision or acquisition by any person in The Bahamas or Bahamian outside The Bahamas of financial services or any other services to, from or for the benefit of or on the direction or order of that foreign state or any person in that foreign state;

(e) the docking in that foreign state of ships registered or licensed, or for which an identification number has been issued under the laws of The Bahamas;

(f) the landing in that foreign state of aircraft registered in The Bahamas or operated in connection with a Bahamian air service licence;

(g) the docking in or passage through The Bahamas by ships registered in that foreign state or used, leased or chartered, in whole or in part, by or on behalf of or for the benefit of that foreign state or a person in that foreign state; and

(h) the landing in or flight over The Bahamas by aircraft registered in that foreign state or used, leased or chartered, in whole or in part, by or on behalf of or for the benefit of that foreign state or any person in that foreign state.

By section 4 of the Act, the Governor General may issue to any person in The Bahamas or Bahamian outside The Bahamas a permit to carry out a specified activity that is restricted or prohibited pursuant to this Act or any order or regulation made under the Act.

Pursuant to this Act the Governor General executed **the International Obligations (Economic and Ancillary Measures) (Afghanistan) Order 2001 S.I. No. 139 of 2001.** This Order prohibited the sale or supply of goods to Afghanistan; prohibits the provision of financial services to or any business with Osama Bin Laden and the Al Qaida Organization of any individuals or entities associated with them. The Order also freezes any accounts held in the name of Osama Bin Laden, the Al Qaida organization or any person or organization associated with them as designated from time to time by the Attorney General after consultation with the Governor of the Central Bank of The Bahamas and the Director of the Financial Intelligence Unit.

The Attorney General, after consultation with the Governor of the Central Bank and the Director of the Financial Intelligence Unit has issued four notices under the International Obligations (Economic and Ancillary Measures) Order. These notices were issued on 27 September 2001, 16 October 2001, 12 November 2001 and 15 November 2001.

As a result of the notices being forwarded to the financial institutions, three accounts totalling in excess of US$ 32 million were frozen as a protective measure because of the similarity of names of alleged terrorists appearing on the lists.

During the week of 22 October 2001, a team from the United States of America comprising officials from the Federal Bureau of Investigation, the Financial Crimes Enforcement Network, the Internal Revenue Service, the Secret Service, the Federal Reserve Bank and the United States Customs visited The Bahamas and assisted in the investigation of the source of the $32 million. As a result of the investigation, it was determined that none of the funds were connected to any of the terrorists named on the lists and the funds were released.

2. *Resolution 1333 (2000)*

Paragraph 8 (c)

"To freeze without delay funds and other financial assets of Usama bin Laden and individuals and entities associated with him as designated by the Committee, including those in the Al-Qaida organization, and including funds derived or generated from property owned or controlled directly or indirectly by Usama bin Laden and individuals and entities associated with him, and to ensure that neither they nor any other funds or financial resources are made available, by their nationals or by any other persons within territory, directly or indirectly for the benefit of Usama bin Laden, his associates or any entities owned or controlled, directly or indirectly by Usama bin Laden or individuals and entities associated with him including the Al-Qaida organization and requests the Committee to maintain an updated list, based on information provided by States and regional organizations, of the individuals and entities designated as being associated with Usama bin Laden, including those in the Al-Qaida organization;

Please see response to paragraph 4(b) of resolution 1267 above.

Additionally, as lists of persons suspected of being associated with Usama bin Laden and the Al-Qaida organization have been released by the United Nations Security Council or any other organization these lists have been forwarded to the Central Bank of The Bahamas and the Financial Intelligence Unit for necessary action. To date there has been no evidence of any funds connected with Usama bin Laden or the Al-Qaida organization and individuals and entities associated with him.

3. Resolution 1390 (2002)

1. Decides to continue the measures imposed by paragraph 8(c) of resolution 1333 (2000) and takes note of the continued application of the measures imposed by paragraph 4 (b) of resolution 1267 (1999) in accordance with paragraph 2 below, and decides to terminate the measures imposed in paragraph 4 (a) of resolution 1267 (1999);

2. Decides that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolutions 1267 (1999) hereinafter referred to as "the Committee"

(a) ***Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or their nationals or y any persons within their territory;***

(b) ***prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified;***

(c) ***prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities;***

The International Obligations (Economic and Ancillary Measures) Act gives effect to this Resolution. Section 3 (1) of that Act enables the Governor General, for the purpose of implementing a decision, resolution or recommendation of an international organization or association of states of which The Bahamas is a member, that requests its members to take economic measures against a foreign state, or where the Governor General is of the opinion that a grave breach of international peace and security has occurred that has resulted or is likely to result in serious international crisis-

(a) make such orders or regulations with respect to the restriction or prohibition of any of the activities referred to in subsection (2) in relation to a foreign state as the Governor General considers necessary; and

(b) by order, cause to be seized, frozen or sequestered in the manner set out in the order any property situated in The Bahamas that is being held by or on behalf of –

(i) a foreign state;

(ii) any person in that foreign state or

(iii) a national of that foreign state who does not ordinarily reside in The Bahamas,

with a view to preventing the removal of such property in contravention of the laws of The Bahamas.

The International Obligations (Economic and Ancillary Matters) (Afghanistan) Order was promulgated ion 26 September 2001. (S.I. No 139 of 2001). Paragraph 2 of The International Obligations (Economic and Ancillary Matters) (Afghanistan) Order 2001 provides that no person shall -

(a) directly or indirectly supply, sell and transfer to the territory of Afghanistan under Taliban control, arms and related materials of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts in respect of the aforementioned;

(b) directly or indirectly sell, supply and transfer to the territory of Afghanistan under Taliban control, technical advice, assistance or training relating to the military activities of the armed personnel;

(c) sell, supply or transfer the chemical anhydride to any person in the territory of Afghanistan under Taliban Control.

The Order further provides in paragraph 3 that no aircraft shall be permitted to take off from, land in or fly over The Bahamas if that aircraft is destined to land or has taken off from Afghanistan.

Paragraph 4 of the Order prohibits the dealing by any person in The Bahamas or any Bahamian outside The Bahamas in any property wherever situated held by or on behalf of the territory of Afghanistan under Taliban control; Usama bin laden or the Al-Qaida organization.

Paragraph 5 of the Order prohibits the provision or acquisition by any person in The Bahamas or any Bahamian outside The Bahamas of financial services or any other services to, from or for the benefit of or on the direction or order of the territory of Afghanistan under Taliban control; Usama bin Laden or the Al-Qaida organization.

Paragraph 6 of the Order prohibits banks and financial institutions in The Bahamas from transacting any business with Usama bin laden, the Al-Qaida organization or any individuals or entities associated with or allegedly associated with Usama bin Laden or the Al-Qaida organization as designated from time to time by the Attorney General after consultation with the Governor of the Central Bank of The Bahamas and the Director of the Financial Intelligence Unit.

Further all banks and financial institutions licensed in The Bahamas were ordered to freeze all accounts held in the name of Usama bin Laden, the Al-Qaida organization or any individuals or entities associated or allegedly associated with Usama bin Laden or the Al-Qaida organization as designated from time to time by the Attorney General after consultation with the Governor of the Central Bank and the Director of the Financial Intelligence Unit.

All lists of alleged terrorists are forwarded to The Central Bank of The Bahamas who would forward the said lists to all financial institutions licensed by the Bank. To date there has been no evidence of any terrorist activity in The Bahamas by Usama bin laden or the Al-Qaida organization or any individuals or entities associated with Usama bin Laden and the Al-Qaida organization.

Under the **Immigration Act** no person shall land in The Bahamas from any place outside or embark in the Bahamas from any destination outside The Bahamas save with the leave of any immigration officer and elsewhere than at an authorized port or at such other place as an immigration officer may allow.

Additionally, there are administrative and legislative arrangements, which allow for persons to be placed on a national stop list. A person's name is entered on the stop list where the Board is satisfied that any person who is not a citizen of The Bahamas or a permanent resident and who is for the time being outside The Bahamas, is a person who has, while in The Bahamas conducted himself in a manner which is undesirable; or is a person whose landing in The Bahamas appears undesirable in view of information or advice received from any source which the Board considers reliable. In the event that a person has entered The Bahamas they can be subject to deportation.

The names of persons suspected of being terrorists or involved in terrorism as contained in lists issued from time to time have also been forwarded to the Immigration Board and any person whose name is on any of the said lists would be prevented from entering The Bahamas and placed on the stop list.

The Bahamas has signed the Inter American Convention on the Illicit Manufacture and Trafficking in Weapons, Munitions, Explosives and Related Materials (1997).

CONCLUSION

The Bahamas remains firmly committed to its obligations to the United Nations and in support of Security Council Resolutions.

Attachment*

1. **The International Obligations (Economic and Ancillary Measures) Act;**
2. **The International Obligations (Economic and Ancillary Measures) (Afghanistan) Order 2001;**
3. **The Immigration Act.**

* The enclosures referred to in the report are on file with the Secretariat, room S-3055, and are available for consultation.

United Nations S/AC.37/2003/(1455)/44

Security Council

Distr.: General
23 May 2003
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 22 May 2003 from the Permanent Mission of Switzerland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to his note dated 4 March 2003, has the honour to transmit herewith the report of Switzerland submitted pursuant to Security Council resolution 1455 (2003) (see annex).

03-37285 (E) 060603 060603

Annex

Report of Switzerland submitted pursuant to Security Council resolution 1455 (2003)

Overview

Switzerland's constant practice is to implement in full all United Nations Security Council resolutions concerning non-military sanctions. These resolutions are implemented primarily through ordinances issued by the Federal Council (the Swiss Government), which are directly binding on all State authorities, individuals and companies. Since 1 January 2003, these ordinances have had their basis in the federal act on the implementation of international sanctions (the Embargo Act, RS 946.231), which is the framework act for the implementation of international sanctions. In the past, such ordinances were based directly on the Federal Constitution (RS 101).

The measures envisaged by the sanctions regime which is the subject of this report are implemented in Switzerland through the "Ordinance instituting measures against the Taliban", adopted by the Federal Council on 2 October 2000 to give effect to Security Council resolutions 1267 (1999) and 1333 (2000). Following the adoptions of resolutions 1388 (2002) and 1390 (2002), the Federal Council amended the Ordinance on 1 May 2002. The Ordinance, now entitled "Ordinance instituting measures against individuals and entities linked to Osama bin Laden, the al-Qa'idah group or the Taliban" (hereinafter "the Ordinance"), contains all the provisions necessary to implement the measures envisaged in paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000), paragraphs 1 and 2 of resolution 1390 (2002) and paragraphs 1 and 2 of resolution 1455 (2003). Annex 2 to the Ordinance lists the names of natural or legal persons, groups and entities subject to sanctions. The Ordinance and its annex can be consulted in French and German on the web site of the State Secretariat for Economic Affairs (www.seco-admin.ch, via "*politick économique extérieure*" (foreign trade policy), "*contrôle à l'exportation et sanctions*" (export controls and sanctions), "*sanctions*" (sanctions).

In many areas, the sanctions measures provided for by the Ordinance are strengthened by other legal provisions which are described below in the appropriate sections. All relevant legal instruments are published in the *Recueil systématique du droit fédéral (RS)* (Compendium of Federal Law) and are available on the Confederation's web site (www.admin.ch, via "*Recueil systématique*" (Compendium).

I. Introduction

1. Possible activities of Osama bin Laden, al-Qa'idah or the Taliban in Switzerland

Terrorism of Islamic origin by followers of a rigid form of Islam is a very minor element in Switzerland. Few Swiss residents have been implicated in violent

acts associated with Islamism. In come cases, militant members of al-Qa'idah have transited through Switzerland.[1]

Switzerland cannot be considered a centre for recruitment to al-Qa'idah, it has never harboured operational cells associated with Osama bin Laden's movement. None of the attacks have been proven to have been executed or planned with Swiss-based involvement at either the leadership or the logistical level.

II. Consolidated list

2. Incorporation of the consolidated list in the Swiss legal system

As mentioned at the beginning of this report, the consolidated list is incorporated into Swiss law in the form of an annex to Federal Council Ordinance of 2 October 2000 instituting measures against individuals and entities linked to Osama bin Laden, the al-Qa'idah movement or the Taliban. This annex is modified by the Federal Department of Economic Affairs each time the Committee established pursuant to resolution 1267 (1999) updates its consolidated list. Each modification of annex 2 is immediately communicated to the various administrative units concerned: for financial sanctions, the various authorities which oversee the financial market (see 14.1 below); for travel restrictions, the Federal Office of Immigration, Integration and Emigration (see 15 below); for the arms embargo, the division responsible for authorizations involving war materiel in the Secretariat of State for Economic Affairs (see 20 et seq. below). The general public is also informed (through press releases and publication on the Confederation Internet site). Moreover, financial intermediaries are specially informed of any change made to annex 2 (for more details, see 14.1 below).

3. Problems with regard to the consolidated list

The following problems should be noted:

Gaps in information

There are often gaps in the information on the consolidated list, which frequently makes identification of the individuals or entities covered by these measures very difficult and even impossible. As much detailed information as possible, including date of birth or identity card numbers for example, would significantly facilitate the rapid and effective implementation of the sanctions, in the financial area in particular.

Electronic format

The computerized format of the consolidated list also poses problems to financial intermediaries. The information available in the current formats (pdf and

[1] It will be recalled that four terrorists implicated in the attacks of 11 September 2001, including Mohamed Atta, transited through Switzerland. In addition, José Padilla, who was arrested in the United States of America on 8 May 2002, is accused of planning an attack using radiological materials. Padilla had a stopover in Zurich from 5 to 8 April 2002 between two flights: Karachi-Zurich and Zurich-Cairo; he stated that he had gone to Cairo to visit his wife and children. He again transited through Zurich on 7 May 2002 between his flight from Cairo and his flight to Chicago on 8 May 2002.

html) cannot be directly accessed by the financial intermediaries, but must be re-entered in the database of the particular financial intermediary. This not only represents a source of additional errors but also slows the monitoring process. For this reason, the question of issuing the consolidated list in the form of a database or, alternatively, as an xls file has been raised repeatedly. These two alternative formats would ensure more rapid and effective processing of the consolidated list than the current formats.

Problems of coordination with prior lists and frequent changes to the list

In practice, problems have arisen with the coordination of the various lists issued. Correspondence tables or cross-references would certainly be useful. These problems are further accentuated by the recent Committee practice of modifying the list of names frequently by adding single names. Less frequent updates covering several additions at a time would help to diminish such coordination problems.

4. Designated individuals/entities with links to Switzerland

Several natural persons or entities found on the consolidated list have their domicile or headquarters in Switzerland. The sanctions provided for under resolution 1455 (2003) and previous resolutions on the subject have been fully implemented in respect of those persons or entities.

5. Individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah not yet included in the list

The Swiss Government has no such information.

6. Legal proceedings against the inclusion of names on the list

To date, no individual or entity affected by the sanctions provided for under the Ordinance has contested in court the inclusion of the relevant name in annex 2 of the Ordinance. On the other hand, several individuals have requested that their names be removed from the list and have initiated the de-listing procedure provided under the Guidelines of the Committee established pursuant to resolution 1267 (1999).

7. Additional information on individuals/entities with links to Switzerland

Additional information concerning these individuals/entities was already submitted in November 2002 to the Sanctions Committee established pursuant to resolution 1267 (1999).

8. Measures taken against al-Qa'idah

On 7 November 2001, the Federal Council banned al-Qa'idah and related organizations (Ordinance banning the al-Qa'idah group and related organizations (RS 122)). This prohibition also extends to cover groups, those which have their origins in al-Qa'idah and organizations or groups whose leadership, aims or methods are identical to those of al-Qa'idah, or which carry out its orders. Anyone in Swiss territory who becomes a member of such a prohibited group shall be liable to imprisonment or a fine, unless more severe criminal penalties are imposed. This Ordinance entered into force on 8 November 2001.

III. Financial and economic assets freeze

9. Legal basis to implement the asset freeze

Under article 3, paragraph 1, of the Ordinance, "the assets belonging to the natural and legal persons and the groups or entities cited in annex 2, or controlled by the latter, shall be frozen". By virtue of this provision of Swiss law, the assets of individuals or entities suspected of links to Osama bin Laden, the al-Qa'idah movement or the Taliban are frozen by right. Violations of this obligation are punishable by up to one year's imprisonment or a fine of up to 500,000 Swiss francs. In serious cases, the penalty is up to five years' imprisonment, which may be accompanied by a fine of up to 1 million Swiss francs.

Under Swiss legislation, there is no obstacle to the effective implementation of financial sanctions. In particular, banking secrecy does not present an obstacle to the full and effective implementation of financial sanctions. As discussed below under question 10, financial intermediaries are required under the Ordinance to declare frozen assets to the authorities. In addition, the Money Laundering Act requires financial intermediaries to send a communication to the competent authority and to freeze assets they have reason to suspect may be linked to criminal activity.

10. Administrative structures and mechanisms to identify financial networks linked to Osama bin Laden, al-Qa'idah or the Taliban

The Swiss legal system contains two complementary sets of legislative provisions to combat financial networks linked to Osama bin Laden, al-Qa'idah or the Taliban: the aforementioned Ordinance and the entire array of legislation to combat money-laundering, which has also proven to be effective in combating the financing of terrorism.

(a) Provisions based on the Ordinance

The Ordinance contains an obligation to declare, under which anyone holding or managing assets acknowledged to be covered by this freezing of assets under question 9 above, must immediately declare them to the State Secretariat for Economic Affairs, (SECO), the competent administrative agency within the federal administration for the implementation of international sanctions. Violations of this obligation to render the offender liable to arrest or a fine of up to 100,000 Swiss francs. The freezing of assets based on the Ordinance takes the form of a sanction and is maintained as long as the sanctions against the persons or entities in question remain in force.

(b) Provisions to combat money laundering

In addition to the mandatory declaration to SECO, financial intermediaries are also required to inform the Money Laundering Reporting Office (art. 9 of the Money Laundering Act, hereinafter MLA (RS 955.0)) when reports of dealings with these persons and entities give rise to a reasonable suspicion that property assets involved in the transaction are related to money laundering, that they are of criminal origin or that a criminal organization has the power of alienation over these assets. Violations of this requirement are punishable by a fine of up to 200,000 Swiss francs (art. 37 MLA).

The Money Laundering Reporting Office constitutes an intermediary providing an interface and a filter between the financial intermediaries and the criminal authorities. It is organically attached to the Federal Police Office. Its task is to analyse specific reports provided by financial intermediaries. In order to determine the action to be taken, it conducts the necessary research so that these reports may be analysed and a decision taken regarding their transmission to the competent criminal authorities. The notices are ultimately transmitted to the Office of the Public Prosecutor of the Confederation or to the cantonal criminal authorities.

When the Money Laundering Reporting Office receives a communication, the assets involved must immediately be blocked pending possible criminal proceedings (art. 10 of MLA). The financial intermediary maintains the block on the assets until it receives a ruling from the competent criminal prosecuting authority, for up to five business days from the time it notified the Reporting Office. While the block remains, neither the persons concerned nor third parties should be informed of the communication.

All financial intermediaries must make declarations to both authorities; a declaration made to one of the two authorities does not satisfy the obligation to report the same information to the other, as the two aforementioned declarations lead to two different and independent sets of proceedings, each with quite distinct objectives.

11. Due diligence requirements for financial intermediaries

The Money Laundering Act defines the requirements of due diligence which are the responsibility of all natural and legal persons covered by it:

– *Verification of the identity of the co-contracting parties (MLA art. 3)*

When a business relationship is established, the financial intermediary must verify the identity of the co-contracting party on the basis of proof of identity.

– *Identification of the economically eligible party (MLA art.4)*

The financial intermediary must require the contracting party to make a written declaration indicating the identity of the economically eligible party.

– *Renewal of the identification and the particular obligation of clarification (MLA arts. 5 and 6)*

The financial intermediary must renew the verification of the identity of the co-contracting party or the identity of the economically eligible party when, during the business relationship, doubt arises as to the identity of the co-contracting party or the economically eligible party.

The intermediary bears a special obligation of verification when the transaction or business relationship appears to be unusual or if there are indications that the assets are the proceeds of a crime or that a criminal organization has the power of alienation over those assets.

– *Establishment and retention of documents (MLA art. 7)*

The aforementioned obligations concerning identification would have little effect if the intermediary were not required to record the results of the various investigations and retain them. According to the Money Laundering Act, the

financial intermediary must keep the documents for at least 10 years after the end of the business relationship or the completion of the transaction.

In the event of suspicion that assets belong to Osama bin Laden, members of al-Qa'idah or the Taliban, financial intermediaries are required to make the two declarations described under question 10 above.

Observance of these due diligence requirements is monitored by four authorities that oversee the financial market:

- *the Federal Banking Commission*, which oversees banks, investment fund administrations and real estate agents;
- *the Federal Private Insurance Office*, which monitors private insurance companies;
- *the Federal Gaming Commission*, which monitors casinos;
- the *Anti-Money-Laundering Authority*: Any financial intermediary that is not already subject to one of the three aforementioned monitoring authorities is required either to become affiliated with a self-regulation body recognized by the monitoring authority or to request direct authorization from the Anti-Money-Laundering Authority to conduct its activities.

12. Assets frozen under the Ordinance

On the basis of the Ordinance, 82 bank accounts comprising a total of approximately 34 million Swiss francs are currently blocked in Switzerland. Virtually all of these accounts belong to individuals or entities added to the consolidated list under resolution 1333 (2000). The great majority of these accounts were blocked when changes were first made to the consolidated list after 11 September 2001. Since then, only a few accounts, comprising more modest amounts, have been blocked.

13. Release of funds for humanitarian reasons

As already mentioned in the report of Switzerland of 21 June 2002 on the implementation of resolution 1390 (2002), by way of exception payments from blocked accounts and transfers of frozen capital assets may be authorized if they serve to protect Swiss interests or to prevent hardship cases (arts. 3 and 4 of the Ordinance). Under this provision, the competent authorities, after a thorough examination of each case, have released funds on several occasions before the entry into force of the procedure established by resolution 1452 (2002). In the meantime, a request for a release of funds has been transmitted to the competent Committee in accordance with the procedure set forth in paragraph 1 (a) of resolution 1452 (2002).

14. Legal basis to control the movements of funds or assets to designated individuals and entities

Article 3, paragraph 2, of the Ordinance prohibits the provision of funds to the natural and legal persons and the groups or entities listed in annex 2 or the making available of funds to them, whether directly or indirectly.

14.1 Notification of financial intermediaries

Financial intermediaries are notified of any changes made to annex 2 of the Ordinance by the four oversight authorities listed under question 11. With this notification, they are reminded both of their obligation to freeze funds belonging to persons or entities listed in annex 2 and of the prohibition on providing funds to these persons or entities or making them available to them, whether directly or indirectly.

In practice, notification through the monitoring authorities for the financial market has proven to be particularly speedy and effective. The Federal Banking Commission notifies all the financial intermediaries that it oversees by means of electronic mail addressed to the heads of their respective legal offices. The Anti-Money-Laundering Authority notifies the self-regulating agencies as well as the financial intermediaries under its direct authority through its Internet site. The Federal Private Insurance Office notifies by mail the institutions that it oversees of any changes to the annex. Likewise, the Federal Gaming Commission formerly notified casinos through the mail; today the communications are in electronic form.

14.2./14.3. Reporting suspicious transactions

The Swiss legal system for combating money-laundering is also instrumental in detecting transactions and property assets linked to terrorism and ensuring that they are reported to the competent authorities. The Money Laundering Act stipulates that the Money Laundering Reporting Office must be notified immediately if a financial intermediary has reason to suspect that a criminal organization within the meaning of the Penal Code has the power of alienation over assets (art. 9). Given that terrorist organizations are equivalent to criminal organizations, a financial intermediary must immediately report its suspicions to the Money Laundering Reporting Office when clarification of an unusual transaction reveals a possible link with a terrorist organization, terrorism or the financing of terrorism. This is also the case when the client is on the list of persons or organizations suspected of having links to terrorism. (The actions taken under question 10 above concerning reporting under art. 9 MLA apply mutatis mutandis.)

14.4. Regulation of the movement of precious commodities

The provisions described above concerning money laundering are also applicable to persons engaging in trade in precious metals, raw materials or real estate and their derivatives (MLA, art. 2, para. 3 (c))

With regard to trade in rough diamonds, it should be noted that Switzerland participates in the international system for certification of rough diamonds adopted under the Kimberley Process. This certification system is implemented in Switzerland through the Ordinance of 29 November 2002 on international trade in rough diamonds (RS 946.231.11), which entered into force on 1 January 2003. Since that date, the import, export and entry and removal from a customs warehouse of rough diamonds have been possible only if the diamonds are accompanied by a certificate that cannot be forged. The trade in rough diamonds is authorized only with States participating in the certification system. These measures were originally intended to prevent the financing of civil wars through the trade in conflict diamonds (rough diamonds originating from regions under the control of rebel

groups, particularly in Africa). Nevertheless, they can also prove useful in combating the financing of terrorism.

14.5. Regulation of non-profit-making organizations

Switzerland does not have a special legal form for non-profit-making organizations. In practice, it is the legal forms for foundations and associations that are usually used.

14.5.1. Foundations

Foundations are governed by articles 80 ff of the Swiss Civil Code of 1 January 1912 (SCC; RS 210). Since foundations are under the supervision of the administrative entity (Confederation, canton or commune) under whose jurisdiction they fall by reason of their purposes (art. 84 of the Swiss Civil Code), it is the Confederation that has the primary responsible for oversight of foundations engaged in international activity.

Prior to subjecting a foundation to its oversight, the federal authority verifies in particular the source of its initial capital.

Thereafter, the foundation has to submit annually to the supervising federal authority a number of documents, i.e., the annual report, annual statement of accounts, report of an external and independent oversight body (trust) and the extract of the minutes of the foundation's council attesting to the adoption by the council of the accounts.

During this process, the supervisory authority verifies that the assets are effectively used for the purposes mandated by the statutes of the foundation. In the event of any doubts as to the origin or beneficiaries of the gifts, the supervisory authority requests additional information and proof from the foundation.

14.5.2. Associations

It has thus far not deemed necessary, beyond the measures described under 14.5.3, to exercise greater oversight over associations.

14.5.3. Additional control measures with respect to foundations and associations

(a) Indirect monitoring of financing through bank operations

Since the bulk of financial transactions goes through bank accounts, the application of the provisions of banking regulations (including the reporting of suspicious transactions, rules on identification of clients) constitutes an additional tool for monitoring the financing of foundations and associations.

(b) Monitoring by the cantonal tax authorities

Legal persons engaged in public service activities or activities solely for the public interest may be exempted from taxes on profits and capital exclusively and irrevocably allocated to these purposes (art. 23 (f) LHID; RS 642.14). Donations to legal persons based in Switzerland, which are exempted from taxes by reason of their public service activities or activities solely for the public interest may be deducted from the tax return (art. 25 (c) LHID). The federal tax administration has

laid down strict exemption criteria for the two cases. In considering a request for exemption, the cantonal authority therefore also considers the financial situation of the foundation and the association.

(c) Monitoring by the trade register

Foundations must be registered with the trade register of the canton in which they are based. Associations also engaged in profit-making activities are subject to the same requirement. Registered foundations and associations are required to keep accounts. Such bookkeeping will make it possible to verify how the financial resources of the foundation are used. Lastly, any amendment to the statutes or the composition of the bodies must be notified to the official in charge of the register.

(d) Oversight of the collection of funds

The collection of funds for use in the public interest is governed by cantonal and communal law. However, where necessary, for example in the case of collection for the purpose of financing terrorism or other unlawful activities of an association, the Federal Council is empowered to enact ordinances or take decisions designed to quell or prevent existing or potential unrest that poses a serious threat to law and order, or external or internal security (art. 184, para. 3, and 185, para. 3, of the Federal Constitution (RS 101)). In this regard, the Federal Council may also stop the collection of funds. Surveillance is then undertaken as part of the investigative activities of the police and intelligence services. Necessity, emergency, the primacy of public interest and proportionality are the triggers for prohibition by the Federal Council.

(e) "Oversight" by a private body, the Central Office for Charitable Organizations (ZEWO)

The ZEWO foundation is the Swiss specialized agency for charitable organizations that collect donations. The purpose of ZEWO is to encourage transparency and honesty on the donations market in Switzerland. With the introduction of a seal of approval that is granted to institutions that meet stringent criteria, ZEWO guarantees the quality of charitable institutions that collect donations. The ZEWO Foundation is a founding member of the International Committee on Fund-raising Organizations (ICFO). It is thus in close contact with organizations throughout the world that perform similar functions in their country.

(f) Legal dissolution of foundations and associations

Under articles 78 and 88, paragraph 2, of SCC, a foundation or an association may be dissolved legally when it has goals that are unlawful or are not in keeping with moral standards.

IV. Travel ban

15. Legislative and administrative measures for implementing the travel ban

16./18. Reference list for border posts and Swiss diplomatic missions abroad

Under article 4 of the Ordinance, the entry into and transit through Switzerland are prohibited for the natural persons listed in the annex. To further strengthen this ban, the Swiss Federal Office of Immigration, Integration and Emigration (IMES), the authority responsible for the entry and stay of aliens, has issued visa directives for Swiss diplomatic missions abroad and border posts. The list of individuals is an integral part of those directives. These individuals have been "flagged" in the computer-based visa issuance system of IMES. Thus, if one of these individuals applies for a visa, the diplomatic mission or border post must submit the request to IMES, which takes a decision in consultation with the Federal Department of Foreign Affairs and the State Secretariat for Economic Affairs. It should be noted, in this regard, that the vast majority of individuals on the list in annex 2 require a visa to enter Switzerland. Thus the travel restrictions come into play when the visa application is considered and not just when the applicant enters Switzerland.

The problems that have arisen in this context highlight the difficulty in identifying individuals because the information on the list is not accurate enough (see point 3 above). In order to make the identification process more reliable, the consolidated list should be supplemented with additional information such as the date of birth, passport or identification document number, as well as possible alternative spellings of names.

17. Frequency of list updates

Any change in the annex to the Ordinance is immediately reflected in the computer-based visa issuance system. The addressees of these directives work on the basis of a constantly updated list.

18./19. Application/attempt to enter Switzerland by the individuals on the list

Thus far, the Swiss diplomatic missions and border posts have not submitted any applications for visas submitted by any of the persons on the list.

V. Arms embargo

20. Legal bases for the arms embargo

22. Licensing system

23. Anti-hijacking measures

The ban on the supply of weapons to the persons/entities on the list is implemented in Switzerland on the basis of the Ordinance and legislation on War Materiel (Federal Act on War Materiel (FAWM; RS 514.51) and the Ordinance on War Materiel (OWM; RS 514.511).

Under article 2 of the Act on War Materiel, authorization is required for the manufacture, trade in, brokerage, import, export and transit of war material as well

as the transfer of intangible assets, including know-how and the granting of related rights concerning war materiel. The Secretariat for Economic Affairs is the competent authority empowered to approve applications for authorization. As a rule, an export authorization can only be granted for supplies to a foreign government or an enterprise working for such government, provided the latter has issued a declaration stating that the material will not be re-exported (non-export declaration) (art. 18 FAWM). Nevertheless and on an exceptional basis, whoever wishes to export weapons to a recipient other than a foreign government or to an enterprise working for the latter, must either prove that the required import authorization from the end-user country exists or that such authorization is not necessary (art. 5 (a) OWM).

Legislation on war materiel imposes very strict conditions on the acquisition of weapons by private individuals. The Ordinance instituting measures against the persons and entities linked to Osama bin Laden, the al-Qa'idah group or the Taliban strengthens such legislation by prohibiting the supply, sale and brokerage of weapons of any kind to natural or juridical persons, groups or entities mentioned in annex 2. The supply, sale and brokerage of technical advice and means of assistance or training linked to military activities to the above-mentioned persons or entities (article 1 of the Ordinance) are also prohibited.

In view of the measures taken, it is not possible for Osama bin Laden, al-Qa'idah or the Taliban or persons or entities linked to the latter, to legally acquire weapons.

It should also be noted that article 7 of FAWM prohibits the development, production, trade or engagement in any activity related to nuclear, biological and chemical weapons.

21. Criminal penalties for violation of the arms embargo

The Act on War Materiel provides severe penalties for violation of the authorization regime. The heaviest penalty shall be imprisonment or a fine of up to 1 million Swiss francs. In serious cases, the penalty shall be up to 10 years' imprisonment, which may be accompanied by a fine of up to 5 million Swiss francs (art. 33, paras. 1 and 2, of FAWM).

Similarly, under the Ordinance, violations of the arms embargo shall carry a penalty of up to a year's imprisonment or a fine of up to 1 million Swiss francs. In serious cases, the penalty shall be up to five years' imprisonment, which may be accompanied by a fine of up to 1 million Swiss francs (art. 9 of the Embargo Act (RS 946.231)).

Where an act constitutes a violation of both the Act on War Materiel and the Ordinance — which is often the case — only the criminal provisions providing for the severest punishment are applicable (art. 11 of the Embargo Act).

VI. Assistance and conclusion

24.-26. Assistance and additional information

The Government is currently considering the possibility of offering assistance to other States in the implementation of measures provided for by the relevant United Nations resolutions.

United Nations S/AC.37/2003/(1455)/45

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 23 May 2003 from the Permanent Mission of Tajikistan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Tajikistan presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report of the Republic of Tajikistan on the implementation of Security Council resolution 1455 (2003) (see annex).

03-37279 (E) 020603 030603

Annex to the note verbale dated 23 May 2003 from the Permanent Mission of Tajikistan to the United Nations addressed to the Chairman of the Committee

[Original: Russian]

Report of the Republic of Tajikistan to the Security Council Counter-Terrorism Committee in accordance with paragraph 4 of Security Council resolution 1455 (2003)

Introduction

The Republic of Tajikistan supports existing international agreements relating to various aspects of international terrorism, including Security Council resolution 1455 (2003) on combating terrorism and considers them the bases for international cooperation in counteracting international terrorism. Aware of the threat of international terrorism, Tajikistan firmly and unreservedly condemns terrorism in all its forms and manifestations.

The resolution adopted by the Security Council is a significant contribution to efforts to increase partnership on the part of international structures in conducting a general strategy to combat terrorism and requires stepped-up efforts in carrying out the active measures adopted with the aim of preventing activities that help to maintain and develop terrorism at the national as well as the regional and international levels.

In the current world situation, the most effective way to combat terrorism is to use State legal instruments in order to prevent the use of sources for financing terrorism, funds and other resources utilized for terrorist activities and also by organizations and persons maintaining links with established physical and juridical persons that are directly or indirectly connected with the Taliban movement and international terrorist organizations and similar forces. Eliminating the social basis for terrorism is a priority task in combating terrorism at the current stage.

The experience of Tajikistan and other countries in counteracting international terrorism shows that the growing threat of terrorism urgently underscores the need to strengthen coordinated action by international entities (States) in cooperation in dealing with the root causes of terrorism since its social basis will grow in geometric progression.

In order to ensure the implementation of the paragraphs in the United Nations resolution in question, the detection and blocking of the channels for financing the activities of terrorist organizations are still an important measure. In this regard, the Republic of Tajikistan advocates consolidating the efforts of the international community in this area.

The Government of the Republic of Tajikistan hereby submits its national report on measures taken to comply with the requirements of Security Council resolution 1455 (2003), taking into account the recommendations drawn up by the Counter-Terrorism Committee.

Paragraph 1 of Security Council resolution 1455 (2003)

1. What measures had been taken in order to enhance measures adopted to prevent and cut off the financing of terrorist acts?

Within the framework of the implementation of Security Council resolution 1373 (2001), the Ministry of Security of the Republic of Tajikistan conducts operational searches of organizations and persons suspected of involvement in terrorist activities in order to uncover and block possible channels for the financing of terrorism and to detect and suppress in good time illegal migration.

In accordance with decision No. 506 of the Government of the Republic of Tajikistan of 9 November 2001 on the implementation of normative legal acts of the Republic of Tajikistan, the National Bank of the Republic of Tajikistan, in accordance with Security Council resolution 1373 (2001), adopted on 28 September 2001, took a decision and issued the appropriate order No. 21/62-2559 of 15 November 2001 requiring commercial banks to freeze funds and other financial assets or economic resources of persons and organizations who directly or indirectly commit or attempt to commit terrorist acts and also participate in the commission of terrorist acts or assist in their commission.

At the present time, a treaty on counteracting the legalization (laundering) of illegally acquired income is being prepared for signature at the level of the heads of member States of the Commonwealth of Independent States (CIS) in order to strengthen measures to combat the financing of international terrorism.

Furthermore, in accordance with note No. 205/2 of 1 April 2002 from the Embassy of the United States of America, the National Bank of the Republic of Tajikistan issued order No. 21/20-1077 of 3 May 2002 requiring commercial banks to close any accounts in their institutions belonging to the Al-Alqsa Martyrs Brigade and to take urgent measures to freeze their assets.

Traditional criminal activity — the smuggling of and trafficking in narcotic drugs and weapons — is one of the main channels for the self-financing of terrorism. In this regard, Afghanistan, where an unstable military and politica' situation continues to exist, remains, as in the past, the basic channel for bringing weapons and drugs into the Republic of Tajikistan. In fulfilment of the requirements of Security Council resolution 1373 (2001) for preventing the unimpeded movement of terrorists or terrorist groups throughout the Republic's territory, units of the Tajikistan Government's Committee for the Defense of the State Border, together with the Group of Border Troops of the Russian Federation Federal Border Service in the Republic of Tajikistan, are effectively monitoring at passage points the departure and entry of persons for whom entry into the country is prohibited under the established procedure. The organs of the Republic's Ministry of Security, Ministry of Internal Affairs, the Narcotic Drug Control Agency under the President of the Republic of Tajikistan, and the Ministry of State Revenue and Tax Collection carry out operational searches aimed at detecting narcotic drugs in order to block channels for the transport of narcotic substances and suppress drug trafficking linked to terrorist organizations. The operational and physical protection of vulnerable sections of the Tajik-Afghan border has been stepped up. In areas where violators may cross the State border, additional posts have been set up and strengthened, and the regime governing entry, departure and the transport of goods through passage checkpoints situated on the State border with the Islamic State of

Afghanistan has been placed under stricter control in order to prevent the possible infiltration of terrorist groups and the import of substances for carrying out subversive terrorist acts. In 2002, the operation "Border-Barrier" was conducted in the Republic in order to block channels for the transport of narcotic substances and to suppress drug trafficking linked to terrorist organizations.

In accordance with the provisions of Security Council resolution 1373 (2001) on preventing the movement of terrorists, prohibiting their entry into the country and also strengthening measures to monitor the issuance of passage documents and prevent their falsification, Tajikistan put into operation in November and December 2002 the "Zapretniki" interdepartmental database system as part of the implementation of joint measures by the CIS member countries aimed at counteracting international terrorism.

The law enforcement agencies of the Republic of Tajikistan, in accordance with paragraph 8 (c) of Security Council resolution 1333 (2000) are carrying out stepped-up actions to detect and identify citizens of the Republic of Tajikistan detained by the anti-terrorist coalition in the Islamic State of Afghanistan on suspicion of involvement in the Taliban movement and Al-Qaida and members of the organization, the Islamic Movement of Uzbekistan, who are linked to these terrorist organizations and are being kept in the Guantanamo (Cuba) prison.

5. What legislative acts and normative provisions have been adopted to implement and strengthen measures for preventing violations of the measures referred to in paragraph 1 of this resolution?

The Parliament of the Republic of Tajikistan is analysing legislation in the field of counteracting organizations and persons whose activities aim at the commission of terrorist acts, including in the territory of other countries, by trafficking in and producing weapons, ammunition, explosive substances and explosive devices, combating mercenarism, and also establishing criminal liability for terrorist crimes.

The Republic's legislative body adopted a new Act on Refugees, which provides for restrictions in the granting of refugee status, particularly to persons in respect of whom there is information on possible involvement in terrorist organizations or drug-trafficking structures and persons guilty of committing acts that run counter to the purposes and principles of the United Nations, the Organization for Security and Cooperation in Europe and so forth.

In accordance with article 3 of the Act of the Republic of Tajikistan on Refugees, persons in respect of whom there is information on possible involvement in international terrorist organizations or drug-trafficking structures may not be recognized as refugees.

Within the framework of the Commonwealth of Independent States, the Government of the Republic of Tajikistan actively participated in the preparation and adoption of the draft CIS member States' programme to combat international terrorism and other manifestations of extremism for 2003-2004. Through a branch of the CIS Anti-Terrorist Centre for the Central Asian Region, Tajikistan's Ministry of Security has reached agreements with the National Security Service of the Kyrgyz Republic and the National Security Committee of the Republic of Kazakhstan on coordinating a set of measures to block a channel for the illegal migration of international terrorists in the Central Asian region.

With a view to improving and harmonizing legislation on counteracting terrorism in all its forms and manifestations, draft model acts on the defence of special technical equipment for receiving information, on counteracting political extremism and on amending and supplementing the Model Act on Combating Terrorism were drawn up within the framework of the CIS countries with the participation of Tajikistan and are being agreed in the country's Parliament.

In order to develop more effective legal measures and strengthen national legislative acts on the problems of counteracting international terrorism, representatives of the Majlis-i Oli (Parliament) of the Republic of Tajikistan and the country's agencies (entities) engaged in combating terrorism actively participated in a number of practical scientific conferences, forums and round tables, including international ones with the participation of parliamentary delegations from member States of the Community of Independent States, the Organization for Security and Cooperation in Europe and the Council of Europe in St. Petersburg, the Russian Federation.

The Republic of Tajikistan also concluded an agreement on cooperation in counteracting international terrorism with Turkey, France, the United States of America, Pakistan and Poland. Together with other CIS States, Tajikistan signed a protocol approving the regulations governing the procedure for organizing and conducting joint anti-terrorist measures in the territories of the CIS member States in October 2002 in Chişinău, the Republic of Moldova.

In order to set up an effective legal mechanism and strengthen cooperation among the competent agencies of CIS member States in counteracting international terrorism within the framework of the Commonwealth's Anti-Terrorist Centre, Tajikistan participated in drawing up the documents on the general concept underlying the activities of the CIS Anti-Terrorist Centre for the period up to 2005 and the regulations concerning the Centre's information bulletin.

6. What measures are being taken to investigate the actions listed in this subparagraph?

Persons who are engaged in terrorist activities, provide assistance to terrorists or terrorist organizations or propagandize their activities are liable under the Penal Code of the Republic of Tajikistan.

In order to prevent in a timely manner terrorist activities in the Republic of Tajikistan, the activities of the underground radical extremist party Khizb-ut-Takhrir are closely monitored by the Tajik authorities and also jointly with the CIS law enforcement structures in member States.

As a result of operational search and investigative measures carried out by security agencies, 16 leaders and activists of the aforementioned party were detained and arrested, and 60 diskettes, 2 copying machines, 5 binding machines and more than 20,000 copies of subversive and terrorist-extremist literature were confiscated in the first quarter of 2003 in Tajikistan. Investigative bodies instituted six criminal cases under articles 187 and 307 of the Criminal Code of the Republic of Tajikistan. Six members of the above-mentioned extremist party who maintained active links with representatives of the Islamic Movement of Uzbekistan, which cooperates with Al-Qaida and the Taliban movement, were placed in preventive detention.

Additional information on the implementation of the provisions of Security Council resolutions 1373 (2001) and 1455 (2003)

In view of the continuing challenges and threats posed by international terrorists to the security of CIS member States and in order to coordinate efforts, strengthen cooperation and develop coordinated measures to combat international terrorism, the representatives of the "power" structures of the Republic of Tajikistan are continuing to participate in joint operational and tactical anti-terrorist exercises. At the present time (April 2003), the appropriate units for the Ministry of Defence of the Republic of Tajikistan are participating in the joint command-staff and battalion tactical exercise "Commonwealth Southern Shield-2003" for rapid deployment forces of the member countries of the CIS Anti-Terrorist Centre that is being conducted in our Republic.

In order to ensure greater compliance with the requirements of Security Council resolution 1373 (2001), the Republic of Tajikistan is conducting bilateral and multilateral cooperation to combat terrorism on the basis of:

- The 1998 Agreement on Cooperation by the Member States of the Commonwealth of Independent States in Combating Crime;
- The Programme of the Member States of the Commonwealth of Independent States for Combating International Terrorism and Other Manifestations of Extremism up to 2003;
- The Interstate Programme of Joint Measures for Combating Crime for the period 2000-2003;
- Other international agreements in the area of combating terrorism and other manifestations of extremism.

In order to enhance effectiveness and competence in combating international terrorism, the representatives of the executive branch, law enforcement agencies and the special services of the Republic of Tajikistan participated in various conferences and meetings held under the aegis of the Organization for Security and Cooperation in Europe, the United Nations Office on Drugs and Crime as well as meetings conducted within the framework of the Bishkek Group, the Shanghai Cooperation Organization, the Treaty on Collective Security of the Member Countries of the Commonwealth of Independent States and other activities dealing with issues related to combating terrorism. In the first 10 days of February 2003, representatives of the Republic of Tajikistan participated in an OSCE/ODIHR seminar held in London on technical assistance in implementing Security Council resolution 1373 (2001).

Four citizens of the Republic who were the object of an international search for committing grave crimes, including terrorist crimes, were detained and extradited to Tajikistan with the help of its Russian partners during the course of joint operational search activities with law enforcement agencies of the Russian Federation.

In order to prevent possible terrorist acts, the competent agencies of the Republic of Tajikistan developed and implemented measures to enhance the protection of sites subject to heightened technogenic and ecological danger. Measures to step up participation by the general public and the mass information media in counteracting terrorist propaganda were also developed.

The law enforcement agencies of the Republic of Tajikistan are cooperating with the corresponding agencies of other States in order to provide further training to key personnel dealing with questions relating to combating terrorism. For example, in February 2003, six staff members of a special unit to combat terrorism in the Ministry of Security of the Republic of Tajikistan were sent for training (a special course) to the United States of America.

United Nations S/AC.37/2003/(1455)/46

Security Council

Distr.: General
27 May 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 27 May 2003 from the Chargé d'affaires of the Syrian Arab Republic to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Syrian Arab Republic to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit to him herewith the report of the Government of the Syrian Arab Republic pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

03-37582 (E) 050603 060603

Annex

[Original: Arabic]

Report submitted by the Syrian Arab Republic to the Security Council Committee established pursuant to resolution 1267 (1999) under paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

No activities are conducted by the Taliban and al-Qa'idah in the Syrian Arab Republic.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

We circulate the lists we receive to the competent authorities in the Ministry of the Interior for appropriate action as requested.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

There is the problem of some names occurring with only two elements, without any detailed personal data (father, mother, date and place of birth, etc.).

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No, none of the designated entities or individuals have been identified inside the Syrian Arab Republic.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

There are no names of individuals or entities to be added to the List.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No lawsuit has been brought against our authorities by such individuals or entities.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None of the listed individuals are in our country.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

The Syrian Penal Code ensures the imposition of severe penalties on any person involved in the perpetration of an offence related to terrorism, pursuant to articles 280, 298, 299, 300, 304 and 305:

Article 280. Anyone who, within Syrian territory and without the approval of the Government, recruits soldiers to fight for a foreign State shall be punished by a term of imprisonment;

Article 298. Any aggression either aimed at stirring up civil war or sectarian fighting through arming Syrians or inducing them to take up arms against each other or involving incitement to kill and plunder in any locality or localities shall be punishable by hard labour for life, and by death if the aggression takes place;

Article 299. Anyone who heads or assumes any position or leadership of any nature whatsoever in an armed band, either for the purpose of invading a town or locality or destroying property belonging to the State or to a group of people or for the purpose of attacking or resisting the public force [acting] against the perpetrators of such offences shall be punished by hard labour for life;

Article 300. The penalty for participating in armed bands created for the purpose of committing any of the offences provided for in articles 298 and 299 (relating to sedition and gangs) shall be hard labour for life;

Article 304. "Terrorist acts" means all acts intended to create a state of fear which are committed by means such as explosives, inflammable materials, poisonous or burning products or epidemic or microbial agents likely to cause public danger.

Article 305, which defines conspiracies, establishes the penalties to be imposed on their perpetrators as follows:

1. Conspiracy aimed at the perpetration of a terrorist act or acts shall be punishable by 10 to 20 years' hard labour.

2. Every terrorist act shall entail a penalty of 15 to 20 years' hard labour.

3. It shall entail the death penalty if the terrorist act results in the destruction, even partial, of a public building, industrial establishment, vessel or installation of any kind or the disruption of means of information, communication or transport, or if the act causes the death of a person.

III. Financial and Economic Assets Freeze

9. Please describe briefly:

- **The domestic legal basis to implement the asset freeze required by the resolutions above;**
- **Any impediment under your domestic law in this context and steps taken to address them.**

The freezing or confiscation of assets in the Syrian Arab Republic is carried out as follows:

(a) On the basis of legal judgements handed down by the competent courts under Syrian laws and regulations and, accordingly, in implementation of legal judgements;

(b) By provisional attachment following investigatory proceedings by the inspection agencies (Central Board for Oversight and Inspection and Central Agency for Financial Oversight);

(c) Under the Emergency Act promulgated by Legislative Decree No. 51 of 22 December 1962, article 4 of which provides that:

> The judge or his deputy may issue written orders for the confiscation of any movable or immovable property and for the imposition of provisional custodianship over companies and associations and the deferment of debts and liabilities due and payable on the assets confiscated, on the basis of foreign requests in implementation of international agreements and on a proposal from the Ministry of Foreign Affairs.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The competent security authorities in our ministry undertake monitoring and information-gathering measures in cooperation with the Ministry of the Economy.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Please see the response to the questions on paragraph 1 (b) and (c) in the supplementary report submitted by the Syrian Arab Republic to the Security Council Committee established pursuant to resolution 1373 (2001) on counter-terrorism (S/2002/1046).

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also included assets frozen pursuant to resolutions

1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the persons or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

No financial assets belonging to the listed entities or individuals have been detected in the Syrian Arab Republic.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

The authorities concerned in the Syrian Arab Republic have not released any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities, because there were none.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should also include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa`idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;**
- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated;**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities and cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

Charitable and cultural associations and organizations in the Syrian Arab Republic are subject to the provisions of the Law on Private Associations and

Organizations, No. 93 of 1958, its Implementing Regulations, No. 1330 of 1958, and the amendments thereto. Charitable associations and organizations collect funds in accordance with a permit issued on the basis of the regime for the collection of contributions, established by Decision No. 1347 of 30 December 1971 (copy attached). Oversight of charitable associations is effected on the basis of Circular No. Kh/2/5157 of 1 December 1973 (copy attached) setting forth the breakdown of powers transmitted by our Ministry to local administrative authorities, inasmuch as charitable associations collect contributions after obtaining prior permission from the executive office of the province concerned. A balance of the proceeds is drawn up by the directorate of social affairs and labour in the province concerned and the provincial directorates of social affairs and labour make field trips to see how the associations are actually operating and how far they confine themselves to the achievement of their objectives and do not exceed them, and in the light of the visit a report is drawn up in accordance with the attached model.

Overseas funding for such associations is subject to approval by our Ministry through verification of the source of funding. Under the provisions of article 21 of the Law on Private Associations and Organizations, No. 93 of 1958, every association must transmit to the Ministry a copy of each cheque or hawala and information concerning the contribution so that the source of overseas funding may be checked. We would also mention that, under the provisions of article 18 of the above-mentioned Associations Law, associations may not disburse their funds save for the achievement of their objectives. Charitable assistance provided by associations to poor and needy citizens is monitored by the Ministry of Social Affairs and Labour in accordance with our Circular No. B/2/8555 of 30 December 2000 (copy attached). Purchase and sale transactions come under the Statute on Contracts of Private Associations and Organizations, No. Kh/2/2435 of 6 August 1977.

IV. Travel ban

15. Measures have been taken to prevent the entry into or transit through the territory of the Syrian Arab Republic by listed individuals.

16. They have been circulated to the agencies concerned and to border checkpoints for appropriate action.

17. The List is incorporated on an ongoing basis in the database of wanted and banned persons, which is continuously updated.

18. No, we have not stopped any of the listed individuals.

19. These names have been circulated to Syrian diplomatic missions abroad, and no visa applicant whose name appears on the list has been identified.

V. Arms embargo

20. Possession, transport or supply of any kind of weapons or explosives is subject to prior permission from the competent authorities under the Arms and Ammunition Law. We strive to ensure that there is no contravention of the legal norms, and we impose strict monitoring in this regard.

21. Application of the penalties set forth in the Arms and Ammunition Law promulgated by Legislative Decree No. 51 of 2001, the most important being:

Article 40. A penalty of 5 to 15 years' imprisonment and a fine of not less than 3 and not exceeding 10 times the value of the arms and ammunition seized shall be incurred by:

1. Any person who contravenes the provisions of article 2 of this Legislative Decree, which provides that "It is prohibited for anyone other than the competent governmental authorities to manufacture military handguns, hunting rifles, training weapons or any other military weapons or the related ammunition";

2. Any person who smuggles or attempts to smuggle weapons or ammunition for the purpose of trafficking;

3. Any person who is in possession of arms or ammunition being aware that they have been smuggled for the purpose of trafficking. Any accomplice or accessory shall be liable to the same penalty as the principal perpetrator;

Article 41 (a) Any person who bears or possesses a military weapon not eligible for licensing under the provisions of this Legislative Decree or the related Ammunition shall be liable to three to six years of imprisonment and a fine of 10,000 to 50,000 Syrian pounds;

(b) Any person who bears or possesses without a permit a military handgun or the related ammunition shall be liable to two to five years' imprisonment and a fine of 5,000 to 25,000 Syrian pounds;

Article 42 (a) Any person who without a permit bears or possesses a hunting rifle and any person who contravenes the provisions of articles 4, 9, 13 or 16 of this Legislative Decree or who obtains any permit proven to be based on fraud, lies or false documentation shall be liable to six months to one year's imprisonment and a fine of 5,000 to 10,000 Syrian pounds;

(b) Any person who possesses training weapons without a permit or carries them outside the premises of authorized shooting clubs shall be liable to one month to six months' imprisonment and a fine of 1,000 to 5,000 Syrian pounds.

22. No arms permit is issued to any of the listed individuals and entity or to any person likely to be involved in the future with such individuals, groups, undertakings or entities.

23. The Syrian Arab Republic does not currently export any weapons or ammunition.

VI. Assistance and conclusion

24. The Syrian Arab Republic is unable to provide material or technical assistance but is prepared to furnish the information available to it.

25. We are not aware of any areas of incomplete implementation of the Taliban/al-Qa'idah sanctions regime.

26. We have no additional information.

United Nations S/AC.37/2003/(1455)/47

Security Council

Distr.: General
27 May 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan

Note verbale dated 20 May 2003 from the Permanent Mission of Romania to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Romania to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan and has the honour to submit herewith attached the updated report of Romania, in accordance with paragraph 6 of resolution 1455 (2003) (see annex).

03-37576 (E) 060603

Annex

Report pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Usama bin Laden, Al-Quaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends

No activities specific to Al-Qaida and its leader or to the Taliban and their associates were identified on the Romanian territory.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, custom and consular authorities?

The 1267 Committee's List was fully incorporated within the Romanian legal system and administrative structure – including financial supervision, police, immigration control, customs and consular authorities. The Romanian Government adopted the Emergency Ordinance nr. 153/2001, concerning the implementation of the UN Security Council Resolution 1373 (2001), on the fight against international terrorism, as well as the Emergency Ordinance nr. 159/2001, for preventing and suppressing the use of the financial and banking system for funding the terrorist acts.

In accordance with the provisions of art. 1 of the Government Emergency Ordinance nr. 159/2001:

- All financial and banking operations among residents and non-residents as well as among non-residents, only consisting in account current and capital account operations, are forbidden, including currency exchange operations, as they are defined in the currency-related rules and regulations issued by the National Bank of Romania, issued for or in the account of the natural persons or of the legal entities listed in the Appendix, which forms an integral part of the Government Emergency Ordinance.
- The assets of the persons listed in the appendix are frozen, any transfer, by all means, including through banks, being forbidden.

The list will be updated periodically, by Government Decision, based on the information received from the Security Council of the United Nations.

At the same time, **art.4** of the same normative act provides the obligation of certain organisms of the central public administration (*the Ministry of Foreign Affairs, the Ministry of Public Finance, the Ministry of Justice, the Ministry of Interior, the Ministry of National Defence, the Ministry of Communications and of Information Technology, the Ministry of Public Works, Transportation and Housing, the Prosecutor's Office within the High Court of Justice, the Romanian Intelligence Service, the Foreign Intelligence Service, the National Office for the Prevention and Combat of Money Laundering, the Chamber of Commerce and Industry of Romania and of the Municipality of Bucharest, the National Bank of Romania, the National Commission of Transferable Securities and the Insurance Surveillance Commission*) to draw up and maintain updated lists containing natural persons and legal entities suspected of committing or financing acts of terrorism, other than those provided for in the Appendix to the Emergency Ordinance.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

No major problems have been encountered with the implementation of the Consolidated List. However, due to the lack of identifying information on some persons included in the List (e.g. birth date, birthplace, identity cards or other identity documentation, address etc.) and the absence of some parts of names relevant for the specific operations, the tracing of some of these persons was difficult.

4. Have your authorities identified inside your territory any designated individuals or entities?

So far, the Romanian authorities has not identified any person or entity, either on the Romanian territory, or upon the entrance in the country, from those designated in the Consolidated List established and updated by the 1267 Committee of the United Nations.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

Except for those included in the List, we do not have any other names of individuals or entities that might be associated with Usama Bin Laden, or members of the Taliban or Al-Qaida.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate as appropriate.

Since we have not identified any individual or entity included in the List within our national territory, this paragraph cannot be subject of an answer.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them, not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

Since we have not identified any individual or entity included in the List within our national territory, this paragraph cannot be subject of an answer.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

The Government Emergency Ordinance Nr. 141/2001 on the punishment of certain acts of terrorism and of certain acts of non-compliance with the public order (approved with the modifications and amendments stipulated in the Law Nr. 472/2002) does not contain express provisions related to the criminalizing of the acts of recruiting of new Al-Qaida members, of supporting its members in their activities carried out within the territory of our country or of participation in training activities.

Nevertheless, we emphasize that, in conformity with art. 3 in the Government Summary Ordinance Nr. 141/2001, **the agreement in view of committing acts of terrorism** is an offence, being punishable by imprisonment from 3 to 15 years and the interdiction of certain rights. From the construction of the notion of "agreement in view of committing acts of terrorism", results that it also covers the acts of recruiting and of supporting the members thereof, in their activities. The instigation, as well as the complicity to the committing of an offence is criminalized in conformity with art. 25 – 29 from the general part of the Penal Code and will be punished as provided for under the law, for the author thereof.

The Romanian legislation also contains provisions whereby such activities directed, against State security, are subject to penal punishments (art. 166, 167 and 323, of the Penal Code).

In accordance with art. 15 of the Government Emergency Ordinance Nr. 159/2001 on the prevention and combat of the use of the financial and banking system in view of financing acts of terrorism (approved by the Act Nr. 466/2002):

- The act of the individual **who makes available or collects funds**, in a direct or indirect way, being aware of the fact that such funds are used, in full or in part, to commit acts of terrorism, constitutes an offence and is punished by imprisonment from 5 to 20 years and the interdiction of certain rights;
- The same punishment also applies to the act, of an individual, to derive funds in order to finance acts of terrorism;
- The attempt is punishable;
- The funds made available or collected in order to commit acts of terrorism or derived in order to finance acts of terrorism shall be forfeited.

At the same time, according to the provisions of the National Strategy on Preventing and Combating Terrorism and the General Protocol on the Organization and Functioning of the National System for Preventing and Combating Terrorism, specific tasks are assigned to the Parts, according to their responsibilities, including the implementation of the Government Emergency Ordinances nr.153/2001 and nr.159/2001.

The Romanian special services' activities, concerning the monitoring of the actions carried out by followers of some terrorist organizations of islamic fundamentalist orientation, residing in Romania, did not reveal the existence of Al-Qaida training camps in our country or the intention to establish such camps here.

We did not identify any possible activities of Al-Qaida members aimed at recruiting new members or at supporting the specific activities of the group, on our territory.

III. Financial and Economic Assets Freeze

9 Please describe briefly:

- *the domestic legal basic to implement the asset freeze required by the resolutions above;*
- *any impediments under your domestic law in this context and steps taken to address them.*

By the adoption and implementation of the Government Emergency Ordinance nr.159/2001, the Romanian authorities have created the legal framework for preventing and suppressing the use of the financial-banking

system for funding terrorist acts. Those measures are aimed at preventing the funds, assets or other resources from being directly or indirectly offered for the use of persons or entities whose activities are related to terrorism.

The provisions of Chapter I of this Emergency Ordinance - forbidden financial and banking operations - shall apply to all individuals and entities comprised in the list appended thereto. All financial-banking operations having a direct or an indirect connection with such persons are forbidden. In addition, their assets are frozen, any transfer, by any means, including through banking means, being forbidden.

CHAPTER 1
Forbidden Financial-Banking Operations

Art. 1 - (1) Any financial-banking operations among residents and non-residents, as well as only among non-residents, consisting in account current and capital account operations are forbidden, including currency exchange operations, as defined in the currency-related rules and regulations issued by the National Bank of Romania, made for or on behalf of the natural persons or legal entities provided for under the Appendix, forming an integral part of the Emergency Ordinance.

(2) The assets of the individuals specified in the Appendix are frozen, any transfer, through any means, including the banking one, being forbidden.

(...)

Art. 3 – The staff of the financial-banking institutions must refuse the operations specified under art. 1 para. (1) and to address the competent authorities.

Also, in conformity with the provisions of art. 6 of the Government Emergency Ordinance Nr. 159/2002 the financial-banking operations mentioned under art. 1 are subject to the prior authorization by the National Bank of Romania, by the National Commission of Transferable Securities and by the Insurance Surveillance Commission, as the case may be, if they are carried out for or on behalf of the individuals contained in the list of the Ministry of Public Finance, other than those nominated in the list of individuals or entities identified by the 1267 Committee. To this effect, the National Bank of Romania has issued the Norm nr. 5, dated 21 December 2001, with reference to the necessary documentation for the authorizing of the financial and banking operations, as specified under the Government Emergency Ordinance nr. 159/2001.

In conformity with the provisions of para. (4) of art. 15 in the Government Emergency Ordinance Nr. 159/2001, the funds made available or collected in order to commit acts of terrorism, or derived in view of financing acts of terrorism, shall be forfeited.

As far as the freezing of assets is concerned, other than those of the persons in question, as well as of the financial means that do not appear in the list (appendix), the provisions of art. 118 of the Penal Code shall be applicable, as well as those of art. 439 of the Criminal Procedure Code, with reference to the penal procedure related to the measure of the special forfeiture, and to the provisions of art. 163 – 167 of the Criminal Procedure Code, with reference to the procedure of forfeiture.

ART. 118 – **Special forfeiture**

The following are subject to the special forfeiture:

a) The objects resulted out of the act provided for under the penal law;

b) The objects that were used or that were meant to be used for committing an infringement, if they belong to the offender;

c) The objects that were given in order to induce the committing of an infringement or to reward an offender;

d) The objects obviously acquired through an infringement, unless they are given back to the injured party and insofar as they are not used as a set-off thereof;

e) The objects held in breach of the legal provisions.

10. Please describe any specific structure or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban – related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The implementation of the Government Emergency Ordinance nr.159/2001 and of the National Strategy on Preventing and Combating Terrorism, as well as the coming into force of the General Protocol on the Organization and Functioning of the National System for Preventing and Combating Terrorism, on one hand, and the enhancement of the inter-relational mechanisms, both within this System and in the cooperation of the Romanian Intelligence Service with other similar structures of the partner intelligence services, on the other hand, have created the legal framework for accomplishing the tasks pursuant to the provisions of the article 2 of the Resolution nr. 1373 (2001).

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Quaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

By the year 2002, the National Bank of Romania issued Norms nr. 3, on "know your customer" standards, which provide for:

- Setting up, by the banks, of a detailed procedure on the identity checking of new clients, or persons acting on their behalf. Banks are forbidden to enter any business relationship before the identity of the client is checked accordingly.
- Any bank should put in place adequate procedures to detect unusual or suspect transactions. This could be done by setting up the criteria for normal transactions for any type of account, i.e. value limits for the account, client or transaction, or activity type in case of accounts held by legal persons.
- The program should establish an alarm system for suspect transactions and a procedure to report them to the competent authorities.
- The bank could refuse to perform the transactions considered suspect. They are reported to the NBR and to other competent authorities.

The Supervision Department of the NBR is entitled to check the proper implementation of these requirements by the banks and credit unions.

A distinct objective of the on-site supervision is the control of the "know your customer" rules of the bank and their internal control procedures.

12. Resolution 1455 (2003) calls on member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a summary of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1930 (2002). Please include, to the extent possible, in each listing the following information:

- *identification(s) of the person or entities whose assets have been frozen;*
- *a description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property and other assets);*
- *the value of assets frozen.*

The Romanian Intelligence Service has not identified any individual or entity included in the Consolidated List, or that financially supports the terrorist organization Al-Qaida.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of the Al-Qaida or the

Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

The Romanian Intelligence Service has not identified any individual or entity included in the Consolidated List, or that financially supports the terrorist organization Al-Qaida.

14. Pursuant to resolution 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by national or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.

The banks should block the accounts of the listed persons and no bank transfer should be performed.

The lists are sent to the banks so that they are able to identify the accounts and transactions of those persons.

Any information provided by the banks, in order to notify the identifications made, is being sent to the Inter-Ministerial Council established for the implementation of the Resolution nr. 1373/2001 of the Security Council, to the Romanian Intelligence Service and to the Foreign Intelligence Service, for proper use.

In accordance with the provisions of the Government Emergency Ordinance nr.159/2001, all financial and banking operations between residents and non-residents as well as those between non-residents only – current account and capital account operations, including currency exchanges, as defined by the currency regulations issued by the National Bank of Romania, carried out on behalf or in the account of the natural persons or corporate bodies listed in the appendix that is an integral part of the emergency ordinance and includes the List of the persons and / or entities identified by the Committee 1267, are forbidden (the assets of the persons listed in the appendix are frozen, and their transfers, whatever the means, including the banking ones). The employees of the financial and banking institutions are instructed to deny the above operations and subsequently inform the specialized authorities.

The provisions of this normative act do not apply only to the individuals and entities included in the list attached to the Ordinance, because, pursuant to the article 4, the institutions listed in this article – including the Romanian Intelligence Service – draw up and update lists with the natural persons and corporate bodies suspected of perpetrating terrorist acts or financing terrorism (others than those listed in the appendix of the above emergency ordinance), that are sent to the Ministry of Public Finances.

At the same time, on a case by case basis, prior authorization of the National Bank of Romania, the National Commission for Movable Values and the Commission for the Insurance Monitoring is required for the financial and banking operations carried out by the natural persons and corporate bodies suspected of perpetrating terrorist acts or financing terrorism, included in lists drawn up by the authorities in charge with preventing and suppressing the legal or illegal activities aimed at obtaining financial funds for supporting terrorist acts.

By the Decision nr. 467 of May 16, 2002, the Romanian Government completed the Appendix („List") of the natural persons and corporate bodies and / or entities suspected of perpetrating terrorist acts or financing terrorism (published in the Official Gazette nr. 362 of May 30, 2002).

Among the institutions in charge with preventing and suppressing this kind of activities, in accordance with the article 11 of the Law nr. 51/1991, the Romanian Intelligence Service communicates the information concerning the threats to the Romanian national security, including those related to terrorist deeds and acts - pursuant to the article 3 ("i") of the same law, to the "ministers and ministries' department heads, when the information refers to issues connected with the lines of work they coordinate or are responsible for".

At the same time, in accordance with the Government Emergency Ordinance nr. 194/2002 – a normative act that, being consistent with similar international regulations, regulates the legal status of the foreigners in Romania - the Romanian Intelligence Service provides the specialized authorities with the data and indications it has got on the foreigners that intend to enter Romania with the aim to plan or perpetrate extremist terrorist actions, for the authorities to take the appropriate measures for denying their entry in our country. In the same context, the Romanian Intelligence Service can propose the specialized authorities to include in the list of the undesirable persons for Romania the names of the individuals on which reliable data indicate that they have carried or intend to carry out activities that can jeopardize the national security or the public order.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals.

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

Based on the Emergency Ordinance of Romanian Government nr. 159/2001, approved by Law nr. 81/2002 on the organisation and functioning of the Romanian Border Police, and the Emergency Ordinance of Romanian Government nr. 194 from 2002 on the status of aliens, the foreign citizens that

are known as carrying out terrorist acts, or supporting these, are forbidden to travel in Romania.

The Consolidated List of the persons or entities that belong to or are associated to the Taliban regime and Al-Qaida network, established and updated by the 1267 Committee of the United Nations, was transmitted to the county structures for aliens and immigration issues, in order to verify the persons whose name partially correspond to those from the list and to report all suspect cases.

Art. 8 in the Government Emergency Ordinance Nr. 194/2002 with reference to the regime of foreigners in Romania provides:

Art. 8 – **The interdiction to enter Romania**

It is forbidden to foreigners to enter the territory of the Romanian State if:

(...)

b) They are indicated, by international organizations whereof Romania is a party, as well as by institutions specialized in the combat of terrorism, to finance, prepare, support in any way or commit acts of terrorism;

c) There are clues that they belong to organized transgressing groups of trans-national character or to support in any manner the activity of such groups;

d) There are serious reasons to consider that they have committed or participated in the committing of acts of violation against peace and mankind or of any war crimes or crimes against humanity, provided for in the international conventions whereto Romania is a party.

(2) The competent authorities can refuse the entry in Romania to foreigners, in any of the following cases:

a) They committed acts of violation in the period of their other stays in Romania or abroad, against the Romanian State or against a Romanian citizen;

b) They unlawfully introduced or they attempted to introduce other foreigners in Romania;

c) They have previously breached, groundlessly, the purpose declared when applying for their entry visa.

(3) The organisms and the institutions, holding data and information with reference to the existence of situations of the nature of those provided for under para. (1) and (2), are held to inform the Cross-Border Police General Department and the Authority for Foreigners or the territorial units thereof.

(4) The measure of interdiction to enter Romania for foreigners who hold a valid entry visa, granted by the diplomatic missions or by the consular offices of Romania, shall be substantiated by the cross-border police officials and immediately communicated to the person involved, to the Authority for Foreigners and to the Department of Consular Relations within the Ministry of Foreign Affairs.

Concerning air transit, art. 23 of the quoted normative act stipulates the following:

Art. 33 – **Conditions for granting air transit visas**

(1) The air transit visa is granted by the diplomatic missions or by the consular offices of Romania, with the prior approval of the Consular Relations Department within the Ministry of Foreign Affairs, to citizens belonging to the States entered in the list opened by the Ministry of Foreign Affairs to this effect, provided there is a visa issued by a third State, allowing foreigners to continue their travel. Such visa can be granted upon presentation of flight ticket valid up to the point of destination and allows foreigners to remain in the air traffic zone up to 5 days.

The list of the States whose citizens need a visa for air transit was approved by Order of the Minister of Foreign Affairs, under nr.363/2003.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Names and identification data of the persons from the List were included in the electronic database of the Border Police, which can be accessed from every Border Checkpoint. The List is permanently updated and can be accessed 24 hours a day, from every Border Checkpoint, within the electronic system of Border Police.

The Romanian Intelligence Service watchlisted only the persons whose identification data were complete enough for this operation. As the List provided by the UN Security Council includes a great number of persons whose identification data is not complete, the names of these persons have not been watchlisted, and legal procedures for completing the identification data have been initiated.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

As soon as the UN Security Council updates the List and sends it to the Romanian authorities, the persons included in the list will be immediately registered in the border checkpoint lists, only if their identification data are complete. The Romanian Intelligence Service does not possess the capability of searching list data using electronic means at all our entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No person from the List was identified at Border Checkpoints.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

The Ministry of Interior periodically issues a list of undesirable persons, which is sent to all Romanian Consular offices abroad.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The policy of controlling the exports is the essential domestic key factor for fulfilling the non-spreading objectives. The main elements are the responsible institutions and mechanisms involved in the control of these foreign trade operations and the internal licensing procedures.

At present, the control regime is regulated by the stipulations of the Government Ordinance nr. 158/1999 on the export and import of the strategic articles regime.

Within the licensing procedures, there is a rigorous evaluation of the involved economic internal or external operators' behaviour, of the categories of commercialised strategic products (especially those that cannot be used within some programs of nuclear, chemical and biological arming), of the destination country profile, and of the zone they belong to, and in the situation in which some risks are expected, the licences of authorisations are not granted.

In this sense, the hijacking risks of such materials, equipment and technologies towards terrorist organisations and networks of international organised crime are minimal.

The Ministry of National Defence controls all the application forms for arms trade licenses issued by the importer/exporter of military items. The MoND belongs to the National System of Strategic Export Control (SNCES). The trade with military items is carried out according to the specific national export law and international provisions on the matter.

The Romanian Government adopted the Decision nr. 918/2001 for implementing the UN Security Council Resolution nr. 1333/2000, concerning the

situation in Afghanistan. Pursuant to this decision, the Romanian public authorities and institutions, natural persons and corporate bodies, as well as the foreign natural persons and corporate bodies that carry out economic and financial activities will take all the measures needed for implementing the provisions of the above Resolution, a document that is an integral part of the domestic normative system.

At the same time, the Romanian Government's Ordinance nr. 131/1994, concerning the regime of the strategic materiel imports and exports, includes explicit regulations on this issue, in accordance with Romania's international commitments.

For this purpose, a Governmental specialized body was created: the National Agency for Monitoring Strategic Exports and Chemical Weapons Prohibition.

The monitoring regime is structured on two levels, one level concerns the relations with the partners from the countries that implement similar regulations and the other concerns the relations with partners from countries that do not implement similar regulations. In both situations, the strategic material imports and exports are only carried out in customs units especially designed for this purpose.

The Inter-ministerial Council created inside this system is in charge with examining and approving the demands concerning the strategic materiel imports and exports.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

and co-operates with Intelligence Service

According to the provisions of art. 1 in the Government Summary Ordinance Nr. 141/2001 on the penalizing of certain acts of terrorism and of certain acts of violation of the public order, approved with modifications and amendments by the Act Nr. 472/2002, acts of terrorism are: the committing of the infringements of non-observance of the regime of arms and ammunition, the non-observance of the regime of nuclear materials and of other radio-active materials, as well as the non-observance of the regime of explosives, provided for under art. 279, 279[1] and 280 in the Penal Code, in order to cause serious disturbance in the public order through intimidation, terror or through the infliction of a state of panic. The maximum punishment provided for by law for such infringements shall be increased by 5 years, without exceeding the general maximum imprisonment punishment, and with the interdiction of some rights.

The attempt to commit such infringements is also punished. The manufacturing or the procuring of the means or the instruments, as well as the act of taking measures in order to commit an infringement shall also be considered an attempt.

22. Please describe how your arms / arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Quaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

The control of commercial operations with arms and ammunition is regulated by the Government Decision nr. 844 from 2001 on the List with arms, ammunition and other military products that are under export and import control regime, that was harmonised in conformity with the modifications approved by the plenary meetings from 1999 and 2000 of the Arrangement from Wassenaar on controlling the export of conventional arms, products and technologies with double use, and with the common list of military equipment elaborated on the basis of European Union Code of Conduct on the arms export.

The activity of export and import licensing of the arms, ammunition and other military products, as well as that of issuing international transit permits, trans-bordering an and non-commercial operations with such products is made within the Inter-ministerial Committee for the Co-ordination of National Agency for Controlling Strategic Exports and Forbidding Chemical Arms (ANCESIAC) – national authority. The strictness of the licensing mechanism and risk evaluation procedures allow the efficient management of these transfers and, also, the strict observance of embargoes and restrictive regimes.

23. Do you have any safeguards that the weapons and ammunition produces within your country will not be diverted / used by Usama bin Laden, members of Al-Quaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

The arms and ammunition regime is regulated by the Law nr. 17/1996, which imposes strict rules for producing, exporting, importing and trading with firearms and ammunition. According to the stipulations of this law, the possession, carrying and use of military arms and corresponding ammunition, by foreign persons, are forbidden on the Romanian territory.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions?

Upon request, the Ministry of Interior is willing to follow the carrying out of all measures within its competence, including the information and experience exchange.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Quaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

26. Please include any additional information you believe pertinent.

Between the 11th of September 2001 and the 24th of March 2003, at the request of the Romanian Intelligence Service, a number of 122 persons suspected of implication in activities connected to international terrorism were transmitted to the General Inspectorate of Border Police and included in the "order for special control" at border crossing.